

prohibiting liens against water power sites; providing a saving clause, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ROANE, Vice-Chairman.

Committee Room,

Austin, Texas, November 12, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 118, "An Act reappropriating an appropriation of Seventy-five Thousand (\$75,000.00) Dollars made by Acts of the Regular Session, Forty-fourth Legislature, Chapter 352, page 868, for the purpose of remodeling and re-equipping hospital building at the State Hospital for Crippled and Deformed Children at Galveston, Texas; provided that said appropriation shall be used for the purpose of erecting a new hospital building; appropriating an additional Thirty-five Thousand (\$35,000.00) Dollars for such purpose, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ROANE, Vice-Chairman.

Committee Room,

Austin, Texas, November 12, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 105, "An Act validating all elections, election orders, election proceedings, affidavits and city ordinances annexing adjacent territory or extending and prescribing the corporate limits of any incorporated city incorporated and functioning under the General Laws of Texas under Commission Form of Government, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ROANE, Vice-Chairman.

FOURTEENTH DAY

(Thursday, November 14, 1935)

The House met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Stevenson.

The roll was called, and the following Members were present:

Mr. Speaker	Head
Adamson	Herzik
Adkins	Hodges
Aikin	Hofheinz
Alexander	Holland
Aisup	Hoskins
Ash	Howard
Atchison	Huddleston
Beck	Hunt
Bergman	Hunter
Bourne	Hyder
Bradbury	Jackson
Bradford	James
Broyles	Jefferson
Burton	Jones of Atascosa
Butler of Brazos	Jones of Falls
Butler of Karnes	Jones of Shelby
Cagle	Jones of Wise
Caldwell	Keefe
Calvert	King
Canon	Knetsch
Celaya	Lanning
Clayton	Latham
Collins	Leath
Colquitt	Lemens
Colson	Leonard
Cooper	Lindsey
Cowley	Lotief
Craddock	Lucas
Crossley	Luker
Daniel	Mauritz
Davis	McCalla
Davison of Fisher	McConnell
Davisson	McFarland
of Eastland	McKinney
Dickison	Moffett
Dunagan	Moore
Dunlap of Hays	Morris
Dunlap of Kleberg	Morrison
Duvall	Morse
Dwyer	Newton
England	Olsen
Fain	Padgett
Farmer	Palmer
Fisher	Patterson
Ford	Payne
Fox	Petsch
Frazer	Pope
Fuchs	Quinn
Gibson	Reader
Glass	Reed of Bowie
Good	Reed of Dallas
Graves	Riddle
Gray	Roach of Angelina
Greathouse	Roach of Hunt
Hankamer	Roane
Hanna	Roark
Hardin	Roberts
Harris of Archer	Rogers
Harris of Dallas	Russell
Hartzog	Rutta

Scarborough	Thornton
Sessions	Tillery
Settle	Venable
Shofner	Waggoner
Smith	Walker
Spears	Wells
Stanfield	Westfall
Steward	Wood of Harrison
Stinson	Wood of Montague
Stovall	Worley
Tarwater	Young
Tennyson	Youngblood

Absent—Excused

Fitzwater	McKee
Hill	Nicholson
Lange	

A quorum was announced present.

Rev. George W. Coltrin, Chaplain, offered the following invocation:

"Almighty God, we have peculiar need of Thy presence and blessing today. Grant us that will and that spirit that will enable us to complete the important work of the session in the best possible way. For Christ's sake. Amen."

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence on account of important business:

Mr. Lange for today, on motion of Mr. Walker.

MEMORIALIZING CONGRESS RELATIVE TO REFORESTATION IN CERTAIN COUNTIES IN TEXAS

The Speaker laid before the House for consideration at this time, the following resolution:

S. C. R. No. 17, Memorializing Congress and the President for legislation to relieve hardships suffered by counties and districts on account of the reforestation program.

Whereas, The Forty-third Legislature of the State of Texas, in Regular Session, adopted Senate Concurrent Resolution No. 73, giving the consent of the State that the Federal Government purchase lands in Texas for reforestation and other purposes; and

Whereas, Pursuant to such consent on the part of the State, the United States has purchased and is purchasing large tracts of land, particularly for watershed protection and forest preservation purposes; and

Whereas, In the Eastern part of the State the tracts have been purchased in such large contiguous areas that in several counties more than fifty per cent of the area of said counties is being purchased, thus removing said lands from taxation for state, county, district, and municipal purposes; and

Whereas, In some of said counties more than twenty-five per cent of the assessed valuation of property is being thus removed from the tax rolls; and

Whereas, In many instances the entire area of school districts and the entire area of road districts is being removed from taxation; and

Whereas, The State of Texas has already granted its consent to such program because of the beneficial results which will accrue to the section of the State involved, and which will accrue to the State generally; and

Whereas, The State likewise is affected by the removal of such large areas from taxation in the following particulars:

(a) In the future the State will not receive from said lands the taxes it has been receiving in the past for State Ad Valorem, State Pension, and State available school purposes;

(b) The State owns in its Permanent School Fund, and in other funds, bonds of counties, cities, road district and school districts situated within the affected area, which cannot be paid according to their tenor and effect because of the removal from taxation of a substantial part of the property originally securing said indebtedness;

(c) The State is interested in the condition of the citizens of said communities upon whom the burden of paying taxes will rest after said lands have been released from taxation, which burdens in the instance of bonds which are supported by unlimited taxing power must be materially increased, and in instances wherein said bonds are supported by limiting taxing power must be increased to the maximum; and

Whereas, The counties most seriously affected by said condition have heretofore employed counsel to seek some relief at the hands of the Congress of the United States, and

Whereas, The State Board of Education, the Governor, and the Attorney General have been cooperating with

the counties and their counsel in such undertaking; and

Whereas, At the recent session of the Seventy-fourth Congress, Senator Morris Sheppard of Texas, introduced and supported an amendment to a pending bill (H. R. 6776) which, if enacted into law, would have permitted the Reconstruction Finance Corporation to make refinancing loans to the various Governmental agencies in the affected area, on a basis which would have prevented a default in the payment of said obligations without increasing the burden of taxation on the taxpayers in said affected area, at the same time assuring to the Reconstruction Finance Corporation the payment of said obligations made to it; and

Whereas, Said refinancing plan was based on the theory that the Reconstruction Finance Corporation should make such loans available at interest rates sufficiently low that funds could be furnished for refinancing in amounts which would prevent losses to the creditors, and at the same time would not increase the tax burdens, even though a substantial part of the property in the respective communities were removed from taxation; and

Whereas, The Sheppard amendment received favorable consideration and support by the Board of Directors of the Reconstruction Finance Corporation, including the approval of the Honorable Jesse H. Jones of the Reconstruction Finance Corporation; and

Whereas, The amendment introduced by Senator Sheppard was unanimously approved after hearing by the Banking and Currency Committee of the United States Senate; and

Whereas, Said bill (H. R. 6776) was thereafter passed finally with said amendment by unanimous vote of the Senate and of the House of Representatives of Congress; and

Whereas, Said bill was thereafter vetoed by the President of the United States for reasons assigned by him as follows:

"The second provision of this bill extends Government lending into a new field which might be construed to commit the Federal Government to a policy entirely too far reaching—that of lending to counties, districts or municipalities to enable them to take care of already existing bonded indebtedness."

Whereas, The Legislature is hopeful that after a reconsideration, the President will conclude that the extension of the lending powers of the Reconstruction Finance Corporation for the proposed purpose will not be unwarranted, taking into consideration the benefits which have accrued from the use of the powers heretofore granted to the Reconstruction Finance Corporation, under which loans have been made and are now being made to drainage, levee and irrigation districts for refinancing their existing indebtedness, and having due consideration for the benefits which likely will accrue to the people from the use of the power granted by the Seventy-fourth Congress to the Reconstruction Finance Corporation to make loans to distressed school districts, whereby the existing indebtedness of such districts can now be refinanced through loans made by the Corporation; and

Whereas, It is the belief of the Legislature that the additional lending power proposed for the Reconstruction Finance Corporation might be justified on the theory that it can be used only in instances wherein the borrowing county or district has been seriously affected by the removal of lands from taxation purchased by the United States; and

Whereas, The Legislature is hopeful that the President will conclude that if such additional power to be granted to the Reconstruction Finance Corporation constitutes an extension of the policy of the Government lending, taking into consideration the power it is already exercising in reference to drainage, levee and irrigation districts, and in reference to school districts, in which borrowing agencies the Government has made no purchases of land, that such extension of powers will be considered justified by reason of the fact that the condition necessitating the refinancing operation would not have arisen if the Government had not purchased the lands underlying the indebtedness of such counties and districts; and

Whereas, The State of Texas appreciates the cooperation of the Government and the benefits which will accrue from the reforestation program but desires the further cooperation of the Government in relieving the attendant hardships insofar as consistent, and insofar as the act of relieving

said hardships will not cause a financial loss to the United States:

Be it resolved by the Senate, the House of Representatives concurring:

1. That the action of the counties seriously affected and the actions of the State Board of Education, the Governor, and the Attorney General, in seeking legislation by Congress to relieve said condition are approved;

2. That the cooperation heretofore rendered by the Senators and by the Congressmen from the State of Texas in reference to said matter is appreciated and is approved;

3. That the efforts in this behalf made by the Congressman whose districts are seriously affected, viz., Congressman Nat H. Patton and Martin Dies are appreciated and approved;

4. That the special efforts made in behalf of said legislation by the Honorable Morris Sheppard, United States Senator from Texas, and by the Honorable Jesse H. Jones, Chairman, Reconstruction Finance Corporation, are appreciated and approved;

5. That the Senators and Members of the House from the State of Texas in the National Congress are requested to renew and continue their efforts in behalf of said legislation, or some other legislation which will accomplish the purpose;

6. That the Congress of the United States be, and it is hereby requested to repass the legislation herein described, or some similar legislation which will accomplish its purpose;

7. That the President of the United States be, and he is hereby requested to give careful reconsideration to said subject to the end that, if he can consistently do so, he may cooperate in and approve such legislation;

8. That the Secretary of the Senate be, and he is hereby, directed to forward a copy of this resolution to each of the following:

The President of the United States;

The Secretary of the Senate of the United States;

The Chief Clerk of the House of Representatives of the United States; and

To each United States Senator and each Congressman from the State of Texas.

The resolution was read second time, and was adopted.

TO PROVIDE FOR THE PLACING OF THE SIX FLAGS OF TEXAS IN THE HALL OF THE HOUSE

Mr. Hoskins offered the following resolution:

Whereas, In commemoration of the one hundredth anniversary of the liberty of Texas there will be held a series of Centennial celebrations in various Texas cities during the coming year; and

Whereas, There will be many visitors who will visit the State Capitol and the hall of the House of Representatives during this celebration; and

Whereas, The glorious history of Texas under six flags should be called to the attention of these visitors; now, therefore, be it

Resolved, That the Speaker be authorized to procure a suitable specimen of those six flags properly grouped to be placed above the Speaker's desk, over the Battle Flag of the Battle of San Jacinto; and, be it further

Resolved, That the amount of the costs of the six flags be appropriated out of the Contingent Fund of the House.

HOSKINS,
BURTON,
JEFFERSON,
MORRIS,
DUNLAP of Hays,
STEWART.

The resolution was read second time, and was adopted.

RELATIVE TO LEGISLATIVE MANUALS

Mr. Morse offered the following resolution:

Whereas, The Legislative Manual is not quite completed in form for the printer; and

Whereas, The Members of the Legislature should receive them as soon as possible; now, therefore, be it

Resolved by the House of Representatives, That the Chief Clerk of the House be authorized to mail one copy of the House Manual to each member of the House of Representatives of the Forty-fourth Legislature as well as the new members of the Forty-fifth Legislature. The postage expense incurred in the mailing of these manuals shall be paid out of the Contingent Expense Fund of the House.

The resolution was read second time, and was adopted.

TO PROVIDE FOR THE APPOINTMENT OF COMMITTEE TO MAKE CERTAIN SURVEY

Mr. Alsup offered the following resolution:

Whereas, At the Regular Session of the Forty-fourth Legislature there was created the State Department of Safety, which department has been in the process of organization since the effective date of the Act creating same; and

Whereas, There is wide spread public interest in the progress that has been made in the organization, work and policies of said department; and

Whereas, It is of vital public concern that this department be organized and maintained in the most efficient manner possible that its original intents and purposes may be accomplished; therefore, be it

Resolved by the House of Representatives, That the Speaker appoint a committee of three (3) members of the House to make a survey of the progress made in the organization of the said Department of Safety, and as an incident to the making of said survey to determine the truth or falsity of charges that said State Department of Safety and its officials and personnel have impeded law enforcement in this State by giving advance information as to the actions of said department in law enforcement efforts; be it further

Resolved, That said committee be, and the same is hereby, authorized to elect its Chairman from its membership, to adopt rules of procedure, to issue subpoena, subpoena duces tecum, writs of attachment and all other processes necessary to carry out the intents and purposes of this resolution to compel the attendance of witnesses; and to punish for contempt, be it further

Resolved, That there is hereby appropriated out of the Contingent Expense Funds of the Forty-fourth Legislature the sum of \$300 to defray the necessary expenses of said survey and investigation; and that said committee be, and the same is hereby, instructed to report its findings to the next session of the Legislature.

The resolution was read second time.

Mr. Atchison moved the previous question on the adoption of the reso-

lution, and the main question was ordered.

Mr. Hofheinz raised a point of order on further consideration of the resolution by Mr. Alsup, on the ground that the House has heretofore defeated a resolution containing the same subject matter.

The Speaker overruled the point of order.

Mr. Hofheinz raised a further point of order on further consideration of the resolution by Mr. Alsup, on the ground that the time allotted for the consideration of resolutions has expired.

The Speaker overruled the point of order.

Mr. Wells moved to reconsider the vote by which the main question was ordered.

The motion to reconsider was lost.

Question recurring on the adoption of the resolution, yeas and nays were demanded.

The resolution was adopted by the following vote:

Yeas—67

Adamson	Hardin
Adkins	Harris of Dallas
Alexander	Holland
Alsup	Hoskins
Atchison	Hunt
Bergman	Hunter
Bradbury	Hyder
Broyles	Jackson
Butler of Karnes	James
Caldwell	Jefferson
Celaya	Jones of Atascosa
Collins	Latham
Cooper	Leath
Daniel	Lucas
Davis	McConnell
Dickison	Moore
Dunagan	Morrison
Dunlap of Hays	Morse
Dunlap of Kleberg	Newton
Duvall	Olsen
Dwyer	Fadgett
Fain	Quinn
Farmer	Reed of Dallas
Frazer	Riddle
Fuchs	Roach of Angelina
Gibson	Rogers
Glass	Smith
Good	Stanfield
Gray	Steward
Greathouse	Stinson
Hankamer	Stovall
Hanna	Tillery

Venable
Waggoner

Youngblood

Nays—61

Aikin	Mauritz
Ash	McCalla
Beck	McFarland
Bourne	McKee
Burton	McKinney
Butler of Brazos	Moffett
Cagle	Morris
Canon	Palmer
Craddock	Patterson
Crossley	Payne
Davison of Fisher	Pope
Davisson	Reed of Bowie
of Eastland	Roach of Hunt
England	Roane
Fisher	Roark
Ford	Roberts
Fox	Russell
Graves	Rutta
Herzik	Sessions
Hodges	Settle
Hofheinz	Shofner
Huddleston	Spears
Jones of Falls	Tarwater
Jones of Shelby	Tennyson
Jones of Wise	Thornton
King	Walker
Knetsch	Wells
Lanning	Westfall
Lindsey	Wood of Harrison
Lotief	Wood of Montague
Luker	Worley

Absent

Bradford	Howard
Calvert	Keefe
Clayton	Lemens
Colquitt	Leonard
Colson	Petsch
Cowley	Reader
Harris of Archer	Scarborough
Hartzog	Young
Head	

Absent—Excused

Fitzwater	Lange
Hill	Nicholson

Mr. Alsup moved to reconsider the vote by which the resolution was adopted, and to table the motion to reconsider.

Question recurring on the motion to table, yeas and nays were demanded.

The roll of the House was called and the vote announced as follows:

Yeas 63, nays 56.

Mr. Hofheinz called for a verification of the vote.

The roll of the "yeas" and "nays" was again called, and the verified vote resulted as follows:

Yeas—63

Adamson	Hunter
Adkins	Hyder
Alexander	Jackson
Alsup	James
Atchison	Jefferson
Bergman	Jones of Atascosa
Broyles	Latham
Butler of Karnes	Leath
Caldwell	Lucas
Celaya	McConnell
Cooper	Moore
Davis	Morrison
Dickison	Morse
Dunagan	Newton
Dunlap of Hays	Olsen
Duvall	Padgett
Dwyer	Quinn
Fain	Reed of Dallas
Farmer	Roach of Angelina
Frazer	Rogers
Fuchs	Settle
Gibson	Smith
Glass	Stanfield
Good	Steward
Gray	Stinson
Greathouse	Stovall
Hankamer	Tillery
Hanna	Venable
Hardin	Waggoner
Harris of Dallas	Wood of Harrison
Hoskins	Youngblood
Hunt	

Nays—60

Aikin	Huddleston
Ash	Jones of Falls
Beck	Jones of Shelby
Bourne	Jones of Wise
Burton	Knetsch
Butler of Brazos	Lanning
Cagle	Lindsey
Calvert	Lotief
Canon	Luker
Colson	Mauritz
Craddock	McCalla
Crossley	McFarland
Daniel	McKinney
Davison of Fisher	Moffett
Davisson	Morris
of Eastland	Palmer
England	Payne
Fisher	Pope
Ford	Reed of Bowie
Fox	Riddle
Graves	Roach of Hunt
Harris of Archer	Roane
Herzik	Roark
Hofheinz	Roberts

Russell	Thornton
Rutta	Walker
Sessions	Wells
Shofner	Westfall
Spears	Wood of Montague
Tarwater	Worley
Tennyson	

Present—Not Voting

Howard

Absent

Bradbury	Holland
Bradford	Keefe
Clayton	King
Collins	Lemens
Colquitt	Leonard
Cowley	Patterson
Dunlap of Kleberg	Petsch
Hartzog	Reader
Head	Scarborough
Hodges	Young

Absent—Excused

Fitzwater	McKee
Hill	Nicholson
Lange	

The Speaker announced that the motion to table prevailed.

MESSAGE FROM THE SENATE

Austin, Texas, November 14, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has granted the request of the House for a Conference Committee to adjust the differences between the two Houses on House Bill No. 116.

The following have been appointed on the part of the Senate:

Senators Burns, Beck, Moore, Van Zandt and Nelson.

Respectfully,

BOB BARKER,

Secretary of the Senate.

LEAVES OF ABSENCE GRANTED

The following members of the Conference Committee on House Bill No. 116, were granted temporary leaves of absence for this morning, on account of important committee work on House Bill No. 116:

Messrs. McKinney, King, Hyder, Jones of Atascosa and Davis.

The following members of the Conference Committee on House Bill No. 46, were granted temporary leaves of

absence for this morning, on account of important committee work on House Bill No. 46:

Messrs. James, Frazer, Hankamer, Good and McKinney.

The following members of the Conference Committee on Senate Bill No. 15, were granted temporary leaves of absence for this morning, on account of important committee work on Senate Bill No. 15:

Messrs. Pope, Roark, Dunagan, Harris of Dallas and Latham.

TO RECALL HOUSE BILL NO. 26 FROM THE GOVERNOR'S OFFICE

Mr. Dwyer offered the following resolution:

H. C. R. No. 29, To recall House Bill No. 26 from the Governor's office.

Whereas, House Bill No. 26 has finally passed the House and Senate and is now on the Governor's desk; and

Whereas, It has come to the knowledge of the House that corrections should be made in said House bill, particularly as to Section 9 (a) of said House Bill, wherein it is provided that the assistance granted therein shall be granted in such amounts as will provide a reasonable subsistence in keeping with the accustomed standard of living of the applicant; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring, That the Governor be, and he is hereby, requested to return this bill to the House for further consideration.

DWYER,
READER,
DICKISON,
SPEARS,
JEFFERSON,
CELAYA.

The resolution was read second time.

Mr. Morrison moved to table the resolution.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—90

Adamson	Alsup
Adkins	Ash
Aikin	Atchison

Beck	Lucas
Bourne	Mauritz
Broyles	McCalla
Burton	McConnell
Calvert	McFarland
Canon	McKee
Collins	McKinney
Colquitt	Moore
Colson	Morris
Cooper	Morrison
Craddock	Padgett
Crossley	Palmer
Daniel	Patterson
Davison of Fisher	Payne
Dunlap of Hays	Quinn
England	Reed of Bowie
Fain	Reed of Dallas
Fisher	Riddle
Ford	Roach of Angelina
Fox	Roach of Hunt
Fuchs	Roark
Graves	Rogers
Gray	Russell
Harris of Archer	Rutta
Harris of Dallas	Sessions
Head	Shofner
Herzik	Smith
Hodges	Stanfield
Hofheinz	Stinson
Hoskins	Stovall
Hunt	Tarwater
Hunter	Tennyson
Jackson	Thornton
Jones of Falls	Venable
Jones of Shelby	Waggoner
Jones of Wise	Walker
King	Wells
Knetsch	Westfall
Lanning	Wood of Harrison
Latham	Wood of Montague
Lindsey	Worley
Lotief	Young

Nays—32

Alexander	Greathouse
Bergman	Hardin
Bradbury	Hartzog
Bradford	Huddleston
Butler of Brazos	Lemens
Butler of Karnes	Luker
Cagle	Moffett
Caldwell	Morse
Celaya	Newton
Clayton	Pope
Davisson	Reader
of Eastland	Roane
Dickison	Scarborough
Dunlap of Kleberg	Spears
Dwyer	Steward
Farmer	Tillery
Glass	

Absent

Cowley	Leath
Duvall	Leonard
Gibson	Olsen
Hanna	Petsch
Holland	Roberts
Howard	Settle
Jefferson	Youngblood
Keefe	

Absent—Excused

Davis	Hill
Dunagan	Hyder
Fitzwater	James
Frazer	Jones of Atascosa
Good	Lange
Hankamer	Nicholson

MESSAGE FROM THE GOVERNOR

The Speaker laid before the House and had read the following message from the Governor:

Executive Office,
Austin, Texas, November 14, 1935.
To the Members of the Forty-fourth
Legislature

(In Second Called Session):

On November 5, 1935, the House adopted H. S. R. 19, requesting certain information as to the activities of the State Planning Board. This resolution was not delivered to the Executive Department until November 12th. Having noted reports of its passage in the press, however, I immediately requested the State Planning Board to make such a report.

I take pleasure in attaching hereto a copy of same as made to the Governor and the Legislature.

Respectfully submitted,

JAMES V. ALLRED,
Governor of Texas.

(On motion of Mr. Moffett the report attached to the Governor's message was ordered printed in the Journal.)

Austin, Texas, November 13, 1935.

To Hon. James V. Allred, Governor
and
To the Members of the Legislature
Austin, Texas.
Gentlemen:

In accordance with your request of November fifth, we beg to report as follows:

In the absence of any specified date in the Planning Board Bill, the Texas Planning Board decided at its last

meeting held in Austin on October 28, to issue a formal report of its activities for the year 1935 as soon as practicable after December thirty-first. However, since the Legislature has requested a report on "feasible plans providing for the placing of people who are upon relief lands so equipped that such citizens might become self-sustaining and become home owners," we are pleased to report the Board's activities to date upon this particular subject as follows:

"This matter was the first subject to be considered by the Texas Planning Board. At the time of organization there was in existence 'The Texas Rural Communities, Inc.', an organization with financial means at their disposal for the establishment of rural communities. Our Board received some sixty-five separate proposed rural communities for investigation and recommendation. Since House Bill 197 provides that a public hearing shall be held before any adverse report may be made, and because the Board had no facilities for the making of the careful investigations required before approval could be given to any of the above sixty-five proposed settlement projects, all were transmitted to the Texas Rural Communities, Inc., on May twenty-third, 1935. At the same time the following resolution adopted by the Texas Planning Board was also sent to Texas Rural Communities, Inc.,:

"1. The Texas Planning Board believes that settlement of families in homes on land is an essential element in recovery.

"2. The Board believes that in order that the percentage of success among such colonists shall be reasonably high it is important that the quality of lands be good, the size of tracts and equipment provided settlers be adequate and the cost of the farm commensurate with conditions at this time.

"3. The Texas Planning Board has full confidence in the ability of the Directorate of Texas Rural Communities, Inc., to determine these facts relative to particular projects, and takes cognizance of the fact that Texas Rural Communities is in a position to make necessary technical inspections of the individual projects, a character of detailed and highly essential service which the Texas Planning Board is not in a position to undertake.

"4. The Texas Planning Board furthermore has full confidence in the ability of the present Directorate of Texas Rural Communities, Inc., to administer the colonization of those projects which it finds sound in a manner to secure the highest possible degree of success for the settlers, provided the full administrative control of the execution of these undertakings be placed in the hands of the Directorate of Texas Rural Communities, Inc., and of the staff which it has set up.

"5. The Texas Planning Board pledges to Texas Rural Communities, Inc., its full support and every assistance which the Planning Board may be able to render to bring about a condition of organization under which Texas Rural Communities will have undivided authority to administer the proposed colonization without any division of responsibility whatsoever. Unless such condition can be brought about the Texas Planning Board believes that the soundest colony projects offer little hope of success and grave danger of injury to the morale and welfare of proposed settlers.

"6. The Texas Planning Board desires to be kept informed as to the location and type of proposed colonies so that it can make recommendations respecting coordination of colonization development with industrial and other projects."

The above resolution expressed the Board's belief in resettlement. It also expressed the Board's belief that the Texas Rural Communities, Inc., was the best qualified agency to place unemployed persons on rural homesteads where opportunities might be obtained for home ownership and for family subsistence.

The Texas Rural Communities, Inc., accepted all of the proposed colony projects submitted by the Texas Planning Board and began the necessary investigations for selecting the meritorious projects.

While these selections were being made the offices of the Texas Rural Communities, Inc., were moved from Austin to Dallas. At the same time the National Resettlement Administration was created in Washington, and regional offices for Texas and Oklahoma were established in Stillwater, Oklahoma, a city one hundred and sixty miles north of the Texas border. The Texas Planning Board did not feel that Texas could be adequately administer-

ed from Stillwater and prepared the attached brief containing reasons for the re-location of these headquarters in some central location that would adequately serve both Texas and Oklahoma. Copies of this brief were sent to Dr. Tugwell, Federal Administrator, Vice President Garner, our two Texas Senators, and each of our Texas Congressmen. Results obtained were the agreed removal of the regional offices from Stillwater to Dallas.

Texas Rural Communities, Inc., has maintained the project at Wood Lake, in East Texas and is completing the project at Ropesville near Lubbock.

The Texas Planning Board has contact with the Regional Resettlement offices through Dean C. P. Blackwell and the Board's Land Use Committee. The Texas Planning Board still believes that Texas Rural Communities, Inc., is the best qualified agency to place worthy indigent families upon the land where each may have the opportunity for subsistence through its own efforts, through the unusual fertility of Texas soil and by means of the long favorable seasons of the Texas climate.

The Texas Planning Board has sought to serve Texas to the very best of its ability and the members of the Board and the members of its numerous committees have given unstintedly of their time and efforts toward ameliorating the relief situation through increased use of Texas natural resources and the preparation of long range plans for improving the social and economic situation in Texas. We have succeeded in obtaining presidential approval of \$33,766,282 worth of statewide W. P. A. projects, which are estimated to give employment to 54,990 worthy citizens of our State for one year. We still have other statewide W. P. A. projects to be approved by Washington. We are exerting every effort to secure approval of these.

Only yesterday we had the pleasure of showing the exhibit of Texas building stone in the Bureau of Economic Geology to Hon. Leroy Barton, Assistant Secretary of the United States Treasury, and to Mr. Bertram Giesecke, Consulting Architect, United States Treasury. Both of these gentlemen have the authority to specify the use of Texas building stone for Federal buildings. If the Texas Planning Board can encourage the use of Texas

limestones, sandstones, marbles, serpentines, onyres, and others, additional worthy citizens will be given steady employment.

In order to facilitate its work the Board has set up nine subcommittees as follows: public health, land use and recreation, conservation of water resources, reforestation, development of mineral resources, transportation, industry, education, and government and social aspects. Each committee has a member of the Texas Planning Board as chairman, and other members are selected from the Texas institutions of higher learning and from outstanding representatives from business and industry. Each committee is functioning and is devoting considerable time to the topic assigned for consideration. If additional committees are required, they will be appointed by the Board.

The Texas Planning Board appreciates this opportunity of presenting this partial report of its activities to the Governor and to the members of the Legislature. The Board is anxious to receive suggestions from the Governor, the members of the Legislature, and from the citizens of Texas for the social and economic improvement of our State at any and all times.

A full report of all of the activities of the Texas Planning Board will be made to the Governor, the Legislature, and the citizens of Texas at the close of the present year and each year thereafter. If, however, special reports are desired at any time, the Texas Planning Board is ready and willing to make such reports upon request.

Respectfully submitted,

E. A. WOOD,
Director, The Texas
Planning Board.

MEMORANDUM RE

Present Location in Stillwater, Oklahoma, Regional Headquarters of
Resettlement Administration
Region No. 8

For resettlement work purposes the United States is divided into eleven regions, the 8th Region being composed of Oklahoma and Texas. Headquarters for this region are located in Stillwater, Oklahoma. This is the same regional division as obtained under the old rehabilitation program. Under the old program Region 8 had, measured in terms of clients, money

expended, and projects started, approximately one-fifth of all the projects carried on under that setup. In addition to that they took over the subsistence homesteads, which would give Texas about a third. There are approximately 43,000 clients in Texas and 11,000 in Oklahoma, four-fifths of the clients being in Texas. There are 254 counties in Texas and 72 in Oklahoma. All of the subsistence homestead projects are in Texas; so that the vast majority of all the activities are in Texas.

Stillwater, which has been selected as regional headquarters for this region is located about forty miles from the northern boundary of the region and about 900 miles from the southern edge where most of the clients are located. The only Texas city of any size that enjoys any advantage as far as distance is concerned in the Stillwater location is Amarillo. Stillwater, being located on a branch line of the railroad is unsuited for location of headquarters for this region. To travel from Stillwater to either Oklahoma City, which is 70 miles away, or to Tulsa, which is 75 miles away, it is almost imperative that one go by private car as there are no direct rail or bus lines and by either method of travel, one has to make a change on that short route.

There are no adequate housing facilities in Stillwater for the personnel of the Administration. Rents are high, and the cost of board and room for the employed personnel on salaries of from \$1216 to \$1440 is prohibitive for employes with families. A recent survey made by the Chamber of Commerce of Stillwater revealed the fact that while there were forty vacant houses there, they were all in such a state of repair that they were unsuitable for occupation. The fact that an employe cannot move his family to Stillwater on account of the lack of housing facilities creates a feeling of dissatisfaction and discontent which is not conducive to efficient work by the employe.

As regards the relative distribution of personnel between Texas and Oklahoma since the office has been located in Stillwater, all of the clerks and stenographers, with the exception of one stenographer who moved from Texas, are local Oklahoma people. In regard to the staff personnel, the directors of both the Rural Resettle-

ment Division and the Land Utilization Division are residents of Stillwater. Both of these gentlemen are anxious that the headquarters be maintained in Stillwater in order that they may retain their connection with the A. & M. College of Oklahoma, one of them being Director of Extension and the other Dean of the School of Agriculture, both being on leave of absence. There are certain other staff members who have been sent down from their representative divisions at Washington. One of these is a Texas man. The other staff members who need to know all of the agricultural details of their territory would naturally be selected from within the region. To date the selection of only three Texans has been announced for this staff, the balance being composed either of those who have been sent down from the Washington office, or selected from Oklahoma. Difficulty will be found in securing Texans who are qualified to fill these positions because of the inconvenience of their having to move to Stillwater. Texans cannot accept positions in the regional office at Stillwater on account of the fact that they cannot find adequate housing facilities there for their families; therefore, Texans who are qualified for these positions are not available. This amounts to a discrimination against Texas.

Mail service by train from Oklahoma City to Stillwater requires three days time. The slow train service for mail from all points in the region to Stillwater makes it almost necessary to conduct business by telephone, telegraph, or airmail, which makes the cost considerable. Another disadvantage is the fact that the telegraph office in Stillwater closes at 8 o'clock and quite often messages that should come through at night are not received until the next morning, and you might be held over a night because you could not get the message. Another thing, certain supplies are carried in stock in the regional offices, and the poor transportation service makes it hard to get these materials in and out of Stillwater.

If left to the staff for a vote on the matter of moving the headquarters to a centrally located point in the region, the vote would be unanimously in favor of moving. Eastland, Texas is the geographic center of this region. The center of activity, as measured

in proposed projects and clients served, would be some point considerably south and east of Dallas. There are but a very few projects in the northeastern part of Oklahoma, and they are the only ones that can be reached without going through Oklahoma City. To reach the other projects you have to go through Oklahoma City and to get to most of them, through Fort Worth and Dallas in addition; the only method of travel being by automobile. Approximately 90% of the projects are located south of the Oklahoma line.

The Oklahoma papers from about the tenth to the fourteenth of this month (August) carried statements by Congressman Cartwright of Oklahoma, relative to discrimination against Oklahoma in passing out jobs in the Resettlement Administration. If that matter were taken up with the Texas delegation in Washington they might make a list of leading positions held by Oklahomans and by Texans and by a few who were selected from other states who were assigned by the Washington office to this region so as to counteract any activity on the part of Oklahoma for more Oklahomans being appointed to responsible positions in this setup, because the record will show that the majority of the better positions are already being filled by citizens of Oklahoma. Both directors for the region are from Oklahoma, but it is understood that their appointments have not yet been confirmed by the Senate, which is necessary as the salaries are above \$5000.

The regional headquarter offices are in an old college dormitory for girls. The building is entirely unsuited for office purposes. The rooms are not connecting, and the lighting is poor, there being only one small window to a room. Nearly all the office work is done under artificial light. The building is a veritable fire trap and is not equipped with adequate fire escapes. There is no fire-proof vault for the records and in case of fire, the records would be entirely destroyed. It is rumored that the building has been condemned, but be that as it may, it had been abandoned as a dormitory. There is no other available office space in Stillwater.

Due to the conditions mentioned, projects are being held up. The deadline for submitting applications was

the twentieth of August, but because of the lack of an adequate staff to analyze the current projects, applications were submitted for only eleven. Texas alone had fifty projects submitted.

It has been estimated that by moving the regional headquarters from Stillwater to some centrally located point in the region, which would be in Texas, approximately \$150,000 would be saved to the Administration. This estimate was arrived at after taking into consideration the increased cost of maintaining headquarters in Stillwater due to its inaccessibility by direct train or bus line with resulting delay in moving from headquarters to points in the district at which projects are located; the inadequacy of mail service to Stillwater which necessitates enormous costs for telephone and telegraph service; the loss of time by employed personnel as a result of the above and the lowered efficiency of the staff due to conditions set out in the foregoing.

It has been suggested that the Texas delegation, especially the Senators, in Washington be contacted with the view of having them oppose the confirmation of appointments of these regional officers until it is agreed that the regional headquarters will be located in a centrally located point.

MESSAGE FROM THE SENATE

Austin, Texas, November 14, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has adopted the following:

H. C. R. No. 21, Granting permission to C. D. Scroggin and L. S. Scroggin to sue the State Highway Department.

Respectfully,

BOB BARKER,
Secretary of the Senate.

TO GRANT PANHANDLE CONSTRUCTION COMPANY PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, the following resolution:

S. C. R. No. 26, To grant Panhandle Construction Company permission to

sue the State and State Highway Commission.

Whereas, The Panhandle Construction Company of Lubbock, Texas, was duly awarded work for the construction of State Highway Project Number S. P. 1029-A in Palo Pinto County, Texas, by the Highway Commission of this State; and

Whereas, The said Panhandle Construction Company finished its work in accordance with the plans and specifications as prescribed by the Highway Commission and is entitled to settlement of said work, in accordance with its contract with the State; and

Whereas, Said Panhandle Construction Company and the Highway Commission of Texas have been unable to agree upon the amount due under said contract for the work performed in the construction of said project; therefore, be it

Resolved by the Senate of the State of Texas and the House of Representatives concurring, That the Panhandle Construction Company be, and it is hereby granted, permission to sue the State of Texas and the State Highway Commission of the State of Texas upon said contract, for any sums of money that may be due said company under the terms of said contract, for having furnished the materials and performing the work necessary for the completion of said project, and that venue of said suit be placed in Travis County.

The resolution was read second time.

On motion of Mr. Alsup, the resolution was referred to the Committee on State Affairs.

ADOPTION OF CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 5

The Speaker laid before the House for consideration at this time, the Conference Committee Report on Senate Bill No. 5.

The Report having been printed in the Journal on yesterday, with motion by Mr. Knetsch, that the Report be adopted, pending.

Mr. England submitted the following motion:

"I move that the Conference Committee Report on Senate Bill No. 5 be rejected, and that the Committee be instructed to eliminate the pro-

vision in Section 6a, which provides that no county shall receive in excess of 14 cents per capita in State fees and to include in such report or bill the following in lieu thereof:

"Each district and county officer who shall hereafter be compensated on a salary basis shall continue to collect, for the benefit of the Officers' Salary Fund, provided for in this section, all fees and commissions which he is authorized under the present laws to collect from the State of Texas, and it shall be his duty to account for and pay all such commissions received by him into the fund created and provided for under the provisions of Section — of this Act; provided further, that such warrants issued by the State Comptroller shall be made payable jointly to such officers and county treasurer."

ENGLAND,
SCARBOROUGH,
STEWART,
MORRIS.

Mr. Bradbury called for a division of the questions in the motion by Mr. England.

Question recurring on the first section of the motion, that the Conference Committee Report be rejected, yeas and nays were demanded.

The motion was lost by the following vote:

Yeas—54

Adamson	Hoskins
Aikin	Hyder
Alsup	King
Beck	Lanning
Bradbury	Latham
Bradford	Lotief
Burton	Lucas
Butler of Brazos	Moffett
Canon	Morris
Celaya	Morrison
Colson	Morse
Cowley	Palmer
Davis	Payne
Davisson	Pope
of Eastland	Reed of Bowie
Dunagan	Roark
Dunlap of Hays	Roberts
England	Rutta
Fain	Scarborough
Fuchs	Stanfield
Gibson	Steward
Glass	Stovall
Hardin	Tarwater
Harris of Archer	Tillery
Hartzog	Venable
Head	Waggoner

Wells
Wood of Harrison

Wood of Montague

Nays—84

Adkins	James
Alexander	Jefferson
Ash	Jones of Falls
Atchison	Jones of Shelby
Bergman	Jones of Wise
Bourne	Keefe
Broyles	Knetsch
Butler of Karnes	Leath
Cagle	Lemens
Caldwell	Lindsey
Calvert	Luker
Clayton	Mauritz
Collins	McConnell
Colquitt	McFarland
Cooper	McKee
Craddock	McKinney
Crossley	Moore
Daniel	Newton
Davison of Fisher	Olsen
Dickison	Padgett
Duvall	Patterson
Dwyer	Quinn
Farmer	Reader
Fisher	Reed of Dallas
Ford	Riddle
Fox	Roach of Angelina
Frazer	Roach of Hunt
Graves	Roane
Gray	Rogers
Greathouse	Russell
Hankamer	Sessions
Hanna	Shofner
Harris of Dallas	Smith
Herzik	Spears
Hodges	Stinson
Hofheinz	Tennyson
Holland	Thornton
Howard	Walker
Huddleston	Westfall
Hunt	Worley
Hunter	Young
Jackson	Youngblood

Present—Not Voting

McCalla

Absent

Dunlap of Kleberg Settle
Leonard

Absent—Excused

Fitzwater	Lange
Good	Nicholson
Hill	Petsch
Jones of Atascosa	

Question then recurring on the motion by Mr. Knetsch that the Conference Committee Report be adopted, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—100

Adkins	Jefferson
Alexander	Jones of Atascosa
Alsup	Jones of Falls
Ash	Jones of Shelby
Atchison	Jones of Wise
Beck	Keefe
Bergman	King
Bourne	Knetsch
Bradbury	Lanning
Bradford	Lemens
Broyles	Leonard
Butler of Karnes	Lindsey
Cagle	Luker
Caldwell	Mauritz
Calvert	McCalla
Clayton	McConnell
Collins	McFarland
Colquitt	McKee
Colson	McKinney
Cooper	Moore
Cowley	Morrison
Craddock	Newton
Crossley	Olsen
Daniel	Padgett
Davis	Patterson
Dickison	Petsch
Duvall	Reader
Dwyer	Reed of Bowie
Fisher	Reed of Dallas
Ford	Riddle
Fox	Roach of Angelina
Frazer	Roark
Fuchs	Rogers
Graves	Russell
Gray	Sessions
Greathouse	Settle
Hankamer	Shofner
Hanna	Smith
Harris of Dallas	Spears
Herzik	Stanfield
Hodges	Stinson
Hofheinz	Tennyson
Holland	Thornton
Hoskins	Tillery
Howard	Walker
Huddleston	Westfall
Hunt	Wood of Harrison
Hunter	Worley
Jackson	Young
James	Youngblood

Nays—40

Adamson	Dunagan
Aikin	Dunlap of Hays
Burton	England
Canon	Fain
Davison of Fisher	Farmer
Davison	Gibson
of Eastland	Glass

Hardin	Quinn
Harris of Archer	Roach of Hunt
Hartzog	Roane
Head	Roberts
Hyder	Rutta
Latham	Scarborough
Leath	Steward
Lotief	Stovall
Lucas	Tarwater
Moffett	Venable
Morris	Waggoner
Palmer	Wells
Payne	Wood of Montague
Pope	

Absent

Butler of Brazos	Dunlap of Kleberg
Celaya	Morse

Absent—Excused

Fitzwater	Lange
Good	Nicholson
Hill	

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bills and resolutions:

H. B. No. 134, "An Act making an appropriation of the sum of Seventy-five Thousand (\$75,000.00) Dollars, or so much thereof as may be necessary out of any funds in the State Treasury, not otherwise appropriated, to pay the contingent expenses, and to pay the per diem of members and the per diem of officers and employees of the Second Called Session of the Forty-fourth Legislature, also to cover unpaid expenses of the First Called Session of the Forty-fourth Legislature, etc., and declaring an emergency."

H. B. No. 126, "An Act to prohibit the trapping or hunting with guns of wild foxes, or having in possession the pelts thereof in Camp County; providing a penalty; providing that farmers or poultry raisers may kill such foxes in the act of actually destroying chickens or other poultry or farm animals; etc., and declaring an emergency."

H. B. No. 115, "An Act to validate the bonds of water improvement districts and of water control and improvement districts where such bonds have been issued by the district and approved by the Attorney General of the State of Texas, notwithstanding the fact that such bonds were not val-

idated by a suit in the district court as required by law; etc., and declaring an emergency."

H. B. No. 111, "An Act authorizing the selection and the summoning of a general jury panel for jury service in the district and county courts in counties of Texas wherein two (2) or more district courts are situated and maintained; defining district courts within the meaning of the Act; authorizing the judges of the district and county courts in any such county to meet together at stated intervals and determine the number of jurors necessary for jury service for all district and county courts during a period of two (2) months or as many weeks in advance as they decide upon; etc., and declaring an emergency."

H. B. No. 109, "An Act empowering cities of two hundred thirty-thousand (230,000) or more inhabitants to purchase and own, build, maintain, operate, mortgage and encumber health and recreational establishments, parks, playgrounds, hotels, bathhouses, bathing pools or facilities, and any and all other installations or establishments necessary or desirable as a part of health and recreational resorts, parks or playgrounds, or any of them, and the income therefrom, and to evidence the obligations therefor by bonds, notes or warrants and to secure the payment of funds to purchase or build same or to remodel, renovate, maintain or repair same; etc., and declaring an emergency."

H. B. No. 108, "An Act to validate all ad valorem tax levies heretofore made by incorporated cities and towns in the State of Texas which levies are unenforceable because of failure of the governing body of each respective incorporated city and town to make such levy by ordinance, and which are unenforceable because of the failure of such governing bodies to appoint the statutory Board of Equalization, or where the city council, city commission or other governing body of such incorporated city or town have acted as a Board of Equalization in the fixing of the valuation of taxable property for ad valorem taxes within any such incorporated city or town; and declaring an emergency."

H. B. No. 107, "An Act to amend Section 7 of House Bill No. 131, Chapter 247, enacted by the Forty-third Legislature at the Regular Session,

page 867 of the Session Acts of said term which is also Article 52, Section 161 of the Code of Criminal Procedure 1935, Supplement to Vernons Revised Statutes, changing the terms of court of the Criminal District Court of Bexar County, Texas; and declaring an emergency."

H. B. No. 106, "An Act to amend the law controlling fresh water supply districts as embraced in Chapter 4, Title 128 of the Revised Civil Statutes of Texas, 1925, and contained in Chapter 48, page 107 of the General Laws of Texas, enacted by the Thirty-sixth Legislature at its Second Called Session, as amended, so as to provide for a new Article to said Chapter 4, of said Title 128, to be known as 'Article 7959-a' and providing that where any such fresh water supply districts shall have issued bonds and where there shall not be a sufficient number of qualified voters and resident property owners in said district to constitute its governing body, etc., and declaring an emergency."

H. B. No. 99, "An Act increasing the amount that may be allowed by county boards of trustees to the county superintendents of public instruction for expenditures for office and traveling expenses in counties with a population of not less than sixty thousand (60,000), nor more than sixty-one thousand (61,000), according to the last preceding Federal Census; repealing all laws or parts of laws, general or special, in conflict therewith, and declaring an emergency."

H. B. No. 97, "An Act giving L. B. Hammett and wife, Mrs. L. B. Hammett, consent of the Legislature to sue the State of Texas and State Highway Commission for damages resulting from the construction of State Highway No. 6, in and through Grayson County, Texas; fixing the venue of said suit; providing that limitation shall not be pleaded, and declaring an emergency."

H. B. No. 88, "An Act to amend Article 2968 of the 1925 Revised Civil Statutes of Texas, as amended by the First Called Session of the Forty-first Legislature, providing that the exemption certificates for the poll tax shall be secured before the first day of February, and declaring an emergency."

H. C. R. No. 10, Requesting Governor to submit certain subject.

H. C. R. No. 11, Granting J. D. George, et al, permission to sue the State.

H. C. R. No. 15, Granting Mrs. Fannie Williams permission to sue the State.

H. C. R. No. 19, Granting Mrs. Julia Martin, et al, permission to sue the State.

H. C. R. No. 25, To suspend certain Joint Rules to consider Senate Bill No. 27.

H. C. R. No. 26, Memorializing the President of the United States in regard to Federal aid in Texas.

CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 15

(Mr. Alexander in the Chair.)

Mr. Dunagan submitted the following Conference Committee Report on Senate Bill No. 15:

Committee Room,

Austin, Texas, November 14, 1935.

Hon. Walter F. Woodul, President of the Senate,

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sirs: We, your Committee appointed to adjust the differences in Senate Bill No. 15, find it impossible to agree, and beg to report to the House and Senate respectively that we have been unable to agree, and request that the Committee be discharged and a new committee appointed.

ROARK,
POPE,
LATHAM,
HARRIS of Dallas,
DUNAGAN,

On the part of the House.

POAGE,
REDDITT,
REGAN,
HORNSBY,
RAWLINGS,

On the part of the Senate.

RECESS

On motion of Mr. McKee, the House at 12:15 o'clock p. m., took recess to 2:00 o'clock p. m., today.

AFTERNOON SESSION

The House met at 2:00 o'clock p. m., and was called to order by the Speaker.

RELATIVE TO HISTORICAL DISPLAY AT TEXAS CENTENNIAL

The Speaker laid before the House for consideration at this time, the following resolution:

S. C. R. No. 18, Relative to historical display at Texas Centennial.

Whereas, All Texas will celebrate its Centennial Year with an outstanding exposition at Dallas at which all Texans will be in attendance; and

Whereas, It is befitting that a great many relics now stored away in the Capitol and other places under the control of the Library and Historical Commission of the State of Texas should be dressed up and put on exhibition at the Central Exposition in Dallas, and that historical documents and other matter be placed on exhibition; now, therefore, be it

Resolved by the Senate, the House concurring, That the Library and Historical Commission of the State of Texas be requested to cooperate with the officials of the Texas Centennial Central Exposition to the end that an appropriate historical display may be had at Dallas, and we request the said Commission to loan to the Texas Centennial Central Exposition available historical documents, relics, et cetera, upon such reasonable assurance to said Commission as may be proper for the safeguarding and safe return of such material loaned to the Texas Centennial Central Exposition; be it further

Resolved, That true copies hereof be mailed to each of the members of the said Library and Historical Commission of the State of Texas.

The resolution was read second time, and was adopted.

MESSAGE FROM THE SENATE

Austin, Texas, November 14, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has passed the following:

H. B. No. 127, A bill to be entitled "An Act amending and re-enacting Section 18a of the Acts of the Forty-fourth Legislature, Chapter 116, Regular Session, relative to the establishment of itinerant beauty shops, providing exceptions and adding Section 18a, providing for the amendment of

Section 7 of the aforementioned Act; etc., and declaring an emergency."

(With amendments.)

Respectfully,

BOB BARKER,
Secretary of the Senate.

AUTHORIZING CERTAIN CORRECTION IN SENATE BILL NO. 5

Mr. Gibson offered the following resolution:

H. C. R. No. 30, Authorizing certain correction in Senate Bill No. 5.

Whereas, By inadvertance certain necessary provisions were omitted from the free conference report on Senate Bill No. 5, which report has already been adopted by the House of Representatives; therefore, be it

Resolved by the House of Representatives, the Senate concurring, That the Enrolling Clerk of the Senate be, and is hereby, authorized and instructed to make the following corrections in said conference report:

1. Strike out all of Section 15 on page 15 of said report down to and including the figures "1935" in line 17 and insert in lieu thereof the following:

"Section 15. The Commissioners Court in counties having a population of less than twenty thousand (20,000) inhabitants, according to the last preceding Federal Census, at the first regular meeting in January of each calendar year, may pass an order providing for compensation of all county and precinct officers on a salary basis. The Commissioners Court in each of such counties is hereby authorized, and it shall be its duty, to fix the salaries of Criminal District Attorneys. In the event such Court passes such order they shall pay to each of said District and County officers in money an annual salary in twelve (12) equal installments of not less than the total sum earned as compensation by said officer in his said official capacity for the fiscal year of 1935 and not more than the maximum allowed such officer under laws existing August 24th, 1935."

2. Insert after Section 15 on page 17 of said report the following:

"(a) The compensation of a Criminal District Attorney, or County Attorney who performs the duties of District Attorneys, together with the compensation of his assistants, shall be

paid out of the County Officers' Salary Fund, but the State shall pay into such fund each year an amount equal to a sum which bears the same proportion to the total salary of such Criminal District Attorney, or County Attorney performing the duties of a District Attorney, together with the salary of his assistants, as all felony fees collected by such official during the year of 1935 bear to the total fee collected by such official during such year."

3. In Section 13 after the word "treasurer" add the following words: "Hide and animal inspector in".

GIBSON,
LATHAM,
HARRIS of Archer.

The resolution was read second time, and was adopted.

(Mr. Morse in the Chair.)

ADOPTION OF CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 15

The House resumed consideration of pending business, same being the Conference Committee Report on Senate Bill No. 15, which Report was submitted to the House on this morning.

On motion of Mr. Dunagan, the Report was adopted.

In accordance with the above action the Chair announced the appointment of the following new Conference Committee on Senate Bill No. 15:

Messrs. Roark, Dunagan, Luker, Cooper and Alsup.

(Speaker in the Chair.)

MESSAGE FROM THE SENATE

Austin, Texas, November 14, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on Senate Bill No. 15 by viva voce vote.

Adopted

S. C. R. No. 27, Instructing Enrolling Clerk of the Senate to include a saving clause in the Conference Committee Report on Senate Bill No. 5.

Respectfully,

BOB BARKER,
Secretary of the Senate.

AUTHORIZING CERTAIN COR- RECTIONS IN SENATE BILL NO. 5

Mr. McKee offered the following resolution:

H. C. R. No. 31, Authorizing certain corrections in Senate Bill No. 5.

Be it resolved by the House of Representatives, the Senate concurring, That the Conference Report on Senate Bill No. 5 be amended in the following manner:

Add at the end of subsection 5 of Section 14, as shown in the House Journal of Wednesday, November 13, 1935, the following:

"Provided that this Act shall not affect nor repeal Chapter 18, Acts of Second Called Session, Forty-third Legislature, or Chapter 92, Acts of Forty-fourth Legislature, Regular Session."

The resolution was read second time.

Mr. McCalla offered the following amendment to the resolution:

Amend House Concurrent Resolution No. 31 by adding at the end thereof the following:

"The Enrolling Clerk is instructed also to strike out the word 'and' at the end of line three, and the word 'criminal' at the beginning of line four on page 28, of said conference report."

The amendment was adopted.

Mr. Leath offered the following amendment to the resolution:

Amend House Concurrent Resolution No. 31, by adding at the end thereof the following:

Add at the end of subsection 2 of Section 14, the following:

"Provided that nothing in this Act shall be construed as repealing or affecting Section 2 of House Bill No. 694, Chapter 315, Acts 1935, Forty-fourth Legislature, page 724."

The amendment was adopted.

Question recurring on the resolution, it was adopted.

CONFERENCE COMMITTEE RE- PORT ON HOUSE BILL NO. 116

Mr. McKinney submitted the following Conference Committee Report on House Bill No. 116:

Committee Room,
Austin, Texas, November 14, 1935.
Hon. Coke Stevenson, Speaker of the
House of Representatives.
Hon. Walter F. Woodul, President of
the Senate.

Sirs: We, your Conference Committee, appointed to adjust the differences between the two Houses on House Bill No. 116, have had same under consideration and beg to recommend that the bill pass in the form attached hereto.

H. B. No. 116

A BILL

To Be Entitled

An Act making certain emergency and supplemental appropriations out of the General Fund of the State of Texas for the Prison System, and for the State Tuberculosis Sanatorium, and for the Agricultural Experiment Station, A. & M. College, and prescribing certain regulations and restrictions in respect to the expenditure of said appropriations for the fiscal years ending August 31, 1936, and August 31, 1937, respectively; and appropriating One Thousand (\$1000.00) Dollars for the purpose of moving the Board of Par-

dons and Paroles from Austin to offices adjacent to the central unit of the Texas Prison System at Huntsville, Walker County, Texas, and providing that said appropriation may be supplemented from the general maintenance funds of the Texas Prison System in the event said One Thousand (\$1000.00) Dollars is insufficient for the purpose for which it is appropriated; and declaring an emergency.

Be it Enacted by the Legislature of the State of Texas:

Section 1. That the following sums of money be, and the same are hereby, appropriated out of any funds in the State Treasury not otherwise appropriated to cover emergency and supplemental appropriations for the Texas Prison System for the remainder of the fiscal year ending August 31, 1936, and for the fiscal year ending August 31, 1937. Said appropriations for the remainder of the fiscal year ending August 31, 1936, shall be available immediately and all appropriations herein made shall be for the emergencies stated herein and shall be in addition to and supplemental to the appropriations which have heretofore been made to the Texas Prison System:

	For the years ending:	
	August 31, 1936	August 31, 1937
Assistant Farm Managers	\$2300.00	\$2760.00
Farm Stewards	2625.00	3150.00
Dog Sergeants	1375.00	1650.00
Secretary to the Prison Board	600.00	600.00
Veterinary Surgeon	56.65	68.00
Building Superintendent	1200.00	1200.00
Superintendent of Automobile License Plate Plant	1500.00	1500.00
Night guard for Lower Prison Yard	240.00	240.00
Inspector and Searcher for Bull Ring	240.00	240.00
Secretary to Warden	240.00	240.00
Additional Salary for Assistant General Manager of Texas Prison System	600.00	600.00

Provided that the Texas Prison System in the expenditure of the several amounts hereinabove appropriated shall be governed and limited in the amount paid to each employee for which appropriations are herein made as by the provisions of such appropriations to the Texas Prison System as set out at Pages 1125 to 1129, inclusive, of Chapter 364, Acts of the Reg-

ular Session of the Forty-fourth Legislature, 1935, which was the General Appropriation Bill for the support and maintenance for the Departments of the State Government for the fiscal years ending August 31, 1936, and August 31, 1937, and that such Texas Prison System shall also be governed by the general provisions of said Chapter 364, Acts of the Regular Session

of the Forty-fourth Legislature, 1935, appearing at Pages 1151 to 1160 inclusive, in so far as the same are applicable. The amounts herein appropriated for the Superintendent of the Automobile License Plate Plant and the Secretary to the Prison Board are appropriated for the purpose of paying the entire salaries of such superintendent and secretary, and the amounts appropriated for the Veterinary Surgeon, Night Guard for Lower Prison Yard, Inspector and Searcher for Bull Ring, and Secretary to Warden are for the purpose of supplementing the salary heretofore appropriated for such Veterinary Surgeon, Night Guard for Lower Prison Yard, Inspector and Searcher for Bull Ring, and Secretary to Warden. The amounts herein appropriated as additional salary for the Assistant General Manager of the Texas Prison System are for the purpose of supplementing the salary heretofore appropriated for such Assistant General Manager.

Section 1a. There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of One Thousand \$(1,000.00) Dollars or so much thereof as may be necessary, for the purpose of moving the Board of Pardons and Paroles from Austin to the offices in and adjacent to the central unit of the Texas Prison System at Huntsville, Walker County, Texas, as provided by Acts of 1935, Forty-fourth Legislature, Chapter 348, page 631, and in the event this appropriation is insufficient, it may be supplemented from the general maintenance funds of the Texas Prison System.

Section 2. There is hereby appropriated out of any moneys in the General Revenue Fund, not otherwise appropriated, the sum of Three Thousand (\$3,000.00) Dollars for the Texas Agricultural Experiment Station, A. & M. College, for research work, and extermination of Garlic Saut in this State.

Section 3. The sum of Ten Thousand Dollars (\$10,000.00), or so much thereof as is necessary, is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to the State Tuberculosis Sanatorium, Sanatorium, Texas, for the purpose of erecting and equipping a building for physicians at said Sanatorium. The contract for said building shall be let and all equipment purchased by the

State Board of Control in accordance with the provisions of the general laws of Texas relating to contracts and purchases for State Eleemosynary Institutions.

Section 4. The fact that the appropriations for the above items in the General Appropriation Bill for the support and maintenance of the Texas Prison System for the fiscal years ending August 31, 1936, and August 31, 1937, are insufficient and inadequate to provide for the efficient operation of said Texas Prison System, and the further fact that said General Appropriation Bill for the Texas Prison System did not contain appropriations for salaries for the Superintendent of the Automobile License Plate Plant and the Secretary to the Prison Board; and the further fact that the laws of the State of Texas provide that the Board of Pardons and Paroles shall be moved to the offices in and adjacent to the central unit of the Texas Prison System, at Huntsville, Walker County, Texas, and that there was no appropriation made for the payment of the expense of moving; and the further fact that the capacity for patients at the State Tuberculosis Sanatorium has been increased during the past several years and a further increase in the patient capacity is provided by current appropriations and the fact that no adequate building has ever been provided for the physicians; and the further fact that there is no appropriation at this time for the extermination and research work of Garlic Saut in this State; and the urgent need for such appropriations creates an emergency and imperative public necessity that the constitutional rule, requiring bills to be read on three several days, be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

BECK,
NELSON,
MOORE,
BURNS,

On the part of the Senate.

McKINNEY,
JONES of Atascosa,
DAVIS,
HYDER,
KING,

On the part of the House.

On motion of Mr. McKinney, the Report was adopted by the following vote:

Yeas—105

Adkins	Jones of Atascosa
Alexander	Jones of Falls
Alsup	Jones of Wise
Ash	King
Atchison	Knetsch
Beck	Latham
Bourne	Leath
Bradbury	Lemens
Burton	Leonard
Butler of Brazos	Lindsey
Butler of Karnes	Mauritz
Calvert	McCalla
Canon	McConnell
Celaya	McFarland
Clayton	McKee
Collins	McKinney
Colquitt	Moore
Cooper	Morris
Cowley	Morrison
Craddock	Morse
Crossley	Newton
Daniel	Olsen
Davis	Padgett
Davisson	Palmer
of Eastland	Patterson
Dickison	Petsch
Dunlap of Hays	Quinn
England	Reader
Farmer	Reed of Dallas
Fisher	Riddle
Ford	Roach of Angelina
Fox	Roach of Hunt
Fuchs	Roane
Gibson	Roark
Glass	Roberts
Good	Rogers
Gray	Russell
Greathouse	Rutta
Hankamer	Scarborough
Hanna	Sessions
Hardin	Smith
Harris of Dallas	Spears
Hartzog	Stanfield
Head	Steward
Herzik	Stinson
Hodges	Tarwater
Holland	Thornton
Hoskins	Walker
Howard	Wells
Hyder	Westfall
Jackson	Worley
James	Young
Jefferson	Youngblood

Nays—28

Adamson	Cagle
Aikin	Colson
Bergman	Davison of Fisher
Broyles	Fain

Graves	Reed of Bowie
Harris of Archer	Settle
Hofheinz	Shofner
Huddleston	Stovall
Hunt	Tennyson
Keefe	Tillery
Lanning	Venable
Lotief	Waggoner
Lucas	Wood of Harrison
Moffett	Wood of Montague

Present—Not Voting

Luker

Absent

Bradford	Frazer
Caldwell	Hill
Dunagan	Hunter
Dunlap of Kleberg	Jones of Shelby
Duvall	Payne
Dwyer	Pope

Absent—Excused

Fitzwater	Nicholson
Lange	

HOUSE BILL NO. 127 WITH
SENATE AMENDMENTS

Mr. Jefferson called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. B. No. 127, A bill to be entitled "An Act amending and re-enacting Section 18a of the Acts of the Forty-fourth Legislature, Chapter 116, Regular Session, relative to the establishment of itinerant beauty shops, providing exceptions and adding Section 18a, providing for the amendment of Section 7 of the aforementioned Act; etc., and declaring an emergency."

The Speaker laid the bill before the House, with the Senate amendments.

On motion of Mr. Jefferson, the House concurred in the Senate amendments by the following vote:

Yeas—109

Adamson	Broyles
Adkins	Burton
Aikin	Butler of Brazos
Alexander	Calvert
Alsup	Canon
Ash	Celaya
Atchison	Collins
Beck	Colquitt
Bergman	Colson
Bourne	Cooper
Bradbury	Craddock

Crossley	McCalla
Daniel	McConnell
Davis	McFarland
Davisson	McKinney
of Eastland	Moffett
Dickison	Moore
Dunagan	Morris
Dunlap of Hays	Morse
Duvall	Newton
England	Olsen
Farmer	Patterson
Fisher	Payne
Ford	Petsch
Gibson	Pope
Graves	Quinn
Gray	Reader
Greathouse	Reed of Bowie
Hanna	Reed of Dallas
Harris of Archer	Riddle
Harris of Dallas	Roach of Angelina
Head	Roach of Hunt
Herzik	Roark
Hodges	Roberts
Hofheinz	Rogers
Hoskins	Rutta
Howard	Scarborough
Huddleston	Settle
Hunt	Shofner
Hyder	Spears
James	Stanfield
Jefferson	Steward
Jones of Atascosa	Stinson
Jones of Falls	Stovall
Jones of Shelby	Tarwater
Keefe	Tennyson
King	Tillery
Knetsch	Venable
Lanning	Waggoner
Latham	Walker
Leath	Wells
Lemens	Westfall
Leonard	Wood of Harrison
Lotief	Wood of Montague
Lucas	Young

Nays—11

Clayton	Lindsey
Davison of Fisher	Morrison
Fain	Roane
Glass	Sessions
Hankamer	Worley
Jones of Wise	

Present—Not Voting

Cagle	Palmer
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Absent

Bradford	Fox
Butler of Karnes	Frazer
Caldwell	Fuchs
Cowley	Good
Dunlap of Kleberg	Hardin
Dwyer	Hartzog

Hill	McKee
Holland	Padgett
Hunter	Russell
Jackson	Smith
Luker	Thornton
Mauritz	Youngblood

Absent—Excused

Fitzwater	Nicholson
Lange	

MESSAGE FROM THE SENATE

Austin, Texas, November 14, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on Senate Bill No. 5, by the following vote:

Yeas 24, nays 3.

The following have been appointed as Conferees on Senate Bill No. 15:

Senators Poage, Moore, Regan, Shivers and Neal.

Respectfully,

BOB BARKER,
Secretary of the Senate.

PROVIDING FOR PROCEDURE IN REGARD TO CERTAIN CHARGES

Mr. McKinney offered the following resolution:

Whereas, There has been filed by E. E. Hunter and C. C. Canon, members of the House of Representatives of the Forty-fourth Legislature certain charges against J. E. McDonald, Commissioner of Agriculture of the State of Texas, the copy of which charges are hereto attached and which the House of Representatives must investigate; and

Whereas, The Second Called Session of the Forty-fourth Legislature automatically expires at midnight tonight, November 14th, 1935, under the Constitution and laws of the State for legislative purposes; and

Whereas, The Second Called Session of the Forty-fourth Legislature is desirous of continuing this Second Called Session for the purpose of hearing and considering the said charges against the said J. E. McDonald, Commissioner of Agriculture of the State of Texas; now, therefore, be it

Resolved, That this Second Called Session of the House of Representa-

tives of the State of Texas, resolve itself at midnight tonight, November 14th, 1935, into a Committee of the Whole for the purpose of forewith proceeding to an investigation of the charges above referred to, it being the intention of the House to conduct a full, fair, and impartial investigation; that to serve as chairman of the Committee of the Whole, the Speaker shall appoint from among the members of the House a lawyer of recognized ability, who shall pass on the admissibility of the testimony of witnesses; preside over the deliberations of the Committee of the Whole, and to do all other matters and things incident thereto; that the Speaker shall appoint stenographers to take down the proceedings of the hearing, and the same shall be paid for at the regular rates charged by court reporters; that the witnesses before the Committee of the Whole shall be paid the same fees as provided for witnesses summoned in the district courts of this State in criminal cases; that the House, sitting as a Committee of the Whole, shall have the right in accordance with the law to recess and/or adjourn from time to time, shall have the right to invoke the call of the Committee of the Whole for the purpose of obtaining a quorum, as well as for a specific time, shall have the right to summon witnesses which shall be sworn by the Speaker, or the presiding member, or the Chief Clerk of the House, and that said Committee of the Whole shall have full authority to issue all necessary process; summon witnesses and to compel their attendance, and for production before it of any papers, books or documents; that all process ordered issued by the Committee of the Whole shall be signed by either the Speaker, the Speaker pro tem or the Chairman of the Committee of the Whole; and all expenses shall be paid by warrants properly issued by the Chairman of the Contingent Expense Committee, to be approved by the Speaker of the House.

In addition to the powers herein enumerated, the House, sitting as a Committee of the Whole, shall have all powers given to the legislative investigating committees in Articles 5961, and 5962, of the Revised Civil Statutes of 1925; be it further

Resolved, That the hearing shall be conducted and evidence submitted upon not only such matters as may

be charged specifically, but on other matters involving the official integrity of the Commissioner of Agriculture, J. E. McDonald; be it further

Resolved, That at the conclusion of the testimony and hearing, the Committee of the Whole shall recommend to the House of Representatives such action as it may deem necessary and proper in reference to the charges; be it further

Resolved, That the Commissioner of Agriculture to-wit, J. E. McDonald, be permitted to have counsel of his own selection to represent him in the hearing before the Committee of the Whole; be it further

Resolved, That the House while sitting as the Committee of the Whole shall not only have the power to send for persons and papers and to compel the giving of testimony, but it shall also have the power to punish for contempt, to the same extent as the district courts of the State.

McKINNEY,
SPEARS,
KNETSCH.

The resolution was read second time, and was adopted.

CONCERNING HEARING OF CHARGES AGAINST HON. J. E. McDONALD

Mr. Knetsch offered the following resolution:

Whereas, The House of Representatives of the State of Texas has decided to convene on Friday, November 15, 1935, for the purpose of passing upon charges filed against J. E. McDonald, Commissioner of Agriculture; and

Whereas, It is desirable that said hearing should be held as expeditiously as possible in order that no unnecessary time will be used nor the State put to any unnecessary expense; and

Whereas, It is believed that certain rules as to the questioning of witnesses and the order of arguments by the proponents of the charges and the representatives of the Commissioner of Agriculture, J. E. McDonald, as well as House members, should be agreed upon; now, therefore, be it

Resolved, That during the hearing of the charges filed against J. E. McDonald that if any member of the House of Representatives desires to propound a question to any witnesses testifying in said matter, said member

shall reduce said question or questions to writing and submit same to either the leading counsel of the proponents of the charges or to the leading counsel of the defendant, J. E. McDonald, who shall propound said question or questions to the witnesses at the proper time; and be it further

Resolved, That no speech or argument shall be made by any member of the Committee of the Whole until all evidence has been submitted by both the proponents of the charges and the Commissioner of Agriculture, J. E. McDonald, and until the arguments by the proponents of said charges and/or their selected representatives as well as the arguments of the Commissioner of Agriculture, J. E. McDonald or his selected spokesmen and representatives have been concluded.

KNETSCH,
SPEARS.

The resolution was read second time, and was adopted.

RELATIVE TO PERMANENT STATE PARKS

The Speaker laid before the House, for consideration at this time, resolution by Mr. Wood of Harrison, Relative to permanent State parks of Texas.

The resolution having heretofore been read second time and referred to the committee on Public Lands and Buildings.

The Committee on Public Lands and Buildings having recommended the adoption of the resolution.

Mr. Clayton raised a point of order on further consideration of the resolution by Mr. Wood of Harrison, on the ground that the time allotted for the consideration of resolutions has expired.

The Speaker sustained the point of order.

LEAVE OF ABSENCE GRANTED (By unanimous consent)

Mr. Hill was granted leave of absence for this morning, on account of illness, on motion of Mr. Butler of Brazos.

MESSAGE FROM THE SENATE

Austin, Texas, November 14, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has

adopted the Conference Committee Report on House Bill No. 77 by the following vote:

Yeas 22, nays 6.

Respectfully,

BOB BARKER,
Secretary of the Senate.

AUTHORIZING CERTAIN CORREC- TION IN SENATE BILL NO. 5

Mr. Padgett offered the following resolution:

H. C. R. No. 33, Authorizing certain correction in Senate Bill No. 5.

Be it

Resolved, by the House of Representatives, the Senate concurring, That the Enrolling Clerk of the Senate is hereby instructed to amend the Conference Report on Senate Bill No. 5 as follows:

On page 14, Section 14, line 6, by striking out the word "or" and insert in lieu thereof a comma and inserting between the words "county" and "officer," the words "or precinct."

On page 18, Section 17, paragraph (b), line 33, by striking out the words "any constable" and insert in lieu thereof the words "such officers."

On page 18, Section 17, paragraph (b), line 34, by inserting the words "or assistants" between the words "deputies" and "shall."

The resolution was read second time, and was adopted.

CONFERENCE COMMITTEE RE- PORT ON HOUSE BILL NO. 77

Mr. Petsch submitted the following Conference Committee Report on House Bill No. 77:

Committee Room,
Austin, Texas, November 13, 1935.

Hon. Walter F. Woodul, President of the Senate,

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House on House Bill No. 77, have had same under consideration, and beg leave to report it back with recommendation that said House Bill No. 77 be adopted in the form hereto attached.

H. B. No. 77

A BILL

To Be Entitled

An Act defining the term "open saloon," and prohibiting the operation of an open saloon, and providing a penalty for its violation; regulating the traffic in alcoholic liquors in this State, and prescribing penalties for the violation of offenses defined in connection therewith; creating the Texas Liquor Control Board, prescribing the qualifications and duties of the members thereof and vesting it and other departments of State government with power to administer the provisions of this Act; providing for local option elections in counties, justice precincts, incorporated cities and towns to determine whether or not the qualified voters desire to authorize the sale of intoxicating liquors having various alcoholic contents; establishing a system of permits and licenses for persons engaged in the various phases of the liquor traffic; levying fees and taxes, and providing for their collection and allocating the fees and taxes collected; repealing Chapter 7, Title 11, Penal Code of 1925; Title 80, Revised Civil Statutes, 1925; Chapter 116, Acts of the Regular Session, Forty-third Legislature, and all amendments thereto; defining terms used in the Act; making appropriations; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Article I

Section 1. This Act may be cited as the "Texas Liquor Control Act."

Section 2. This entire Act shall be deemed an exercise of the police power of the State for the protection of the welfare, health, peace, temperance, and safety of the people of the State, and all its provisions shall be liberally construed for the accomplishment of that purpose.

Section 3. (a) The term "open saloon," as used in this Act, means any place where any intoxicants whatever, manufactured in whole or in part by means of the process of distillation, or any liquor composed or compounded in part of distilled spirits, is sold or offered for sale for beverage purposes by the drink or in broken or unsealed containers, or

any place where any such liquors are sold or offered for sale for human consumption on the premises where sold.

(b) It shall be unlawful for any person, whether as principal, agent or employee, to operate or assist in operating, or to be directly or indirectly interested in the operation of any open saloon in this State.

(c) It shall be unlawful for any person who is authorized by law to sell malt or vinous liquors for consumption on the premises where sold, or any person who acts as agent or employee of any person, firm, or corporation authorized to sell malt or vinous liquors for consumption on the premises where sold, to have in his possession, at or near the premises where such malt or vinous liquors are sold for such purpose, any liquor produced by the process of distillation or any liquor containing alcohol in excess of fourteen (14%) per cent by volume.

(d) Any person who violates any portion of this Section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine of not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the county jail for not more than one year. Any person who is twice convicted under the provisions of this Section shall for the second and all subsequent offenses be punished by fine of not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, and by confinement in the county jail for not less than thirty (30) days nor more than one (1) year.

(e) Any person who violates any provision of Article I of this Act other than those contained in this Section shall be subject to the penalties prescribed by Sections 41, 42, 43 and 44.

Section 3a. Whenever the word liquor is used in this Act it shall mean and refer to any alcoholic beverage containing alcohol in excess of four per cent (4%) by weight unless otherwise indicated.

Section 4. Unless otherwise herein expressly excepted it shall be unlawful for any person to manufacture, sell, possess for the purpose of sale, import into this State, or transport any

alcohol or any liquor. Unless the exceptions hereinafter made to this section are clear and specific they shall not obtain in favor of any person with respect to any prohibited act and they shall be strictly construed for the accomplishment of this purpose. It is further expressly provided that any rights or privileges that are granted herein to any person as exceptions to the prohibitions contained in this Section shall be enjoyed and exercised only in the manner provided by this Act.

Section 4 (a) It shall be unlawful for any person to manufacture, sell, possess for the purpose of sale, import into this State, or transport liquor in wet areas or dry areas without first having obtained a permit or without first having complied with all other terms and provisions of this Act; provided, however, that the prohibition contained in this Section against the transportation of liquor shall not apply to a person who has purchased such liquor for his own consumption and is transporting the same from a place where the sale thereof was lawful and to a place where its possession by him is lawful; provided further, that the prohibition contained in this Section against the importation and transportation of liquor shall not apply to a person who is bringing into this State not more than one (1) quart of liquor for his own personal use.

Section 4 (b) It shall be unlawful for any person to manufacture, sell, transport or possess for the purpose of sale in any dry area under this or any other act in this State any liquor containing alcohol in excess of one-half of one per centum by volume; provided however, it shall be lawful for the holders of carrier permits and private carrier permits to transport such liquor from one wet area to another wet area where, in the course of such transportation, it is necessary or convenient to cross such dry area; provided further, that this Section shall not apply to the holders of industrial or medicinal permits; provided further, that this Section shall not apply to liquor of a type or alcoholic content that has been legalized in any such prescribed area.

Section 5. There is hereby created a Board named the Texas Liquor Control Board, consisting of three (3) persons, all of whom shall be appointed by the Governor, by and with the advice and

consent of the Senate, and one of whom shall be designated by the Governor to be Chairman of the said Board, and said members shall receive their actual expenses while engaged in the performance of their duties and a per diem of Ten (\$10.00) Dollars per day for not exceeding sixty (60) days for any one year. Each member at the time of his appointment and qualification shall be a resident of the State of Texas and shall have resided in said State for a period of at least five (5) years next preceding his appointment and qualification, and he also shall be a qualified voter therein. Of the members initially appointed each shall hold office from the date of his appointment for the following respective terms, and until their respective successors shall qualify: One member for two (2) years, one for four (4) years, and one for six (6) years from the effective date of the Act. Each member may be initially appointed on or subsequent to the date this Act goes into effect. The Governor, at the time of making and announcing the appointment of said three (3) members, as well as in the commission issued by him to each of them, shall designate which of said members shall serve for each of the said respective terms, and also which shall be the Chairman of the Board.

Upon the expiration of each of said terms, the term of office of each member thereafter appointed, shall be six (6) years from the time of his appointment and qualification, and until his successor shall qualify. In case any member shall be allowed to hold over after the expiration of his term, his successor shall be appointed for the balance of the unexpired term. Vacancies in said Board shall be filled by the Governor for the unexpired term. Each member shall be eligible for reappointment in the discretion of the Governor. No person shall be eligible for appointment, or shall hold the office of member of the Board, or be appointed by the Board, or hold any office or position under the Board, who has any connection with any association, firm, person, or corporation engaged in or conducting any alcoholic liquor business of any kind or who holds stocks or bonds therein, or who has pecuniary interest therein, nor shall any such person receive any commission or profit whatsoever from or have any interest whatsoever in any

purchase or sales of any alcoholic liquors.

The office of the Board shall be in the City of Austin, Texas.

The said Board shall meet at such times within the City of Austin as the Board shall determine, and the members thereof shall be entitled to their reasonable expenses for each meeting so attended, and the per diem hereinabove referred to. A majority of the members shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the Board.

The Board shall appoint an Administrator who shall serve at the Board's pleasure and who shall under the supervision of the Board administer the provisions of this Act. He shall receive a salary not exceeding Five Thousand (\$5,000.00) Dollars per annum, and shall execute a bond, in the sum of Ten Thousand (\$10,000.00) Dollars payable to the State of Texas, conditioned as the Board shall require.

The Board and/or Administrator shall appoint all necessary clerks, stenographers, inspectors, and chemists and other employees to properly enforce the provisions of this Act. No person shall be eligible for any appointment who has any financial connection whatever with any person engaged in or conducting any liquor business of any kind, or who holds stock or bonds therein, or who has any pecuniary interest therein, nor shall any such person receive any commission or profit whatever from, or have any interest whatsoever in, the purchases or sales made by persons authorized by this Act to manufacture, purchase, sell, or otherwise deal in the liquor business.

The Administrator shall act as manager, secretary and custodian of all records unless the Board shall otherwise order.

The Administrator shall devote his entire time to said office.

The Board and/or Administrator shall fix the duties, salaries, and wages of all employees authorized by this Act but such compensation, salaries, and wages shall not be greater than the salaries fixed for similar positions and duties in other departments of the State government. The salaries herein authorized shall not continue in effect beyond the effective date of the General Appropriation Bill of the Forty-fourth Legislature. The Board

shall likewise have power to require any employee authorized by this Act to give bond for the faithful performance of his duties in such an amount and under such conditions as it may deem adequate and proper.

It shall be the duty of the Board, during the month of January of each year, to make a report to the Governor, concerning its administration of this Act.

Section 6. Among others, the functions, powers and duties of the Board shall include the following:

(a) To control the manufacture, possession, sale, purchase, transportation, importation, and delivery of liquor in accordance with the provisions of this Act, and make all necessary rules and regulations to fully and effectually accomplish such purpose.

(b) To grant, refuse, suspend, or cancel permits for the purchase, transportation, importation, sale or manufacture of liquor or other permits in regard thereto.

(c) To investigate and aid in the prosecution of violations of this Act and other Acts relating to liquor, to make seizure of liquor manufactured, sold, kept, imported, or transported in contravention hereof, and apply for the confiscation thereof whenever required by this Act, and co-operate in the prosecution of offenders before any Court of competent jurisdiction.

(d) To exercise all other powers, duties, and functions conferred by this Act, and all powers incidental, convenient, or necessary to enable it to administer or carry out any of the provisions of this Act and to publish all necessary rules and regulations and mail the same to all interested parties.

(e) In the event the United States government shall provide any plan or method whereby the taxes on liquor shall be collected at the source, the Board shall have the right to enter into any and all contracts and comply with the regulations, even to the extent of partially or wholly abrogating any provisions hereof which may be in conflict with Federal law or regulations to the end that the Board shall receive the portion thereof allocated to the State of Texas, and to distribute the same as in this Act provided.

(f) To require that any liquor sold in this State shall conform in all respects to the advertised quality and quantity of such products.

(g) To license, regulate, and control the use of alcohol and liquor for scientific, pharmaceutical and industrial purposes, and to provide by regulation for the withdrawal thereof from warehouses and denaturing plants and to prescribe the manner in which the same may be used for scientific research or in hospitals and sanatoria, in industrial plants, and for other manufacturing purposes, tax free.

Section 7. The Board, the Administrator and any inspector under the direction of the Board, shall, for the purposes contemplated by this Act, have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within or without the State of Texas, as now provided by law, and compel the production of pertinent books, accounts, records, documents, and testimony.

If a witness in attendance before the Board or one of its authorized representatives refuses without reasonable cause to be examined or to answer a legal or pertinent question, or to produce a book, record, or paper when ordered to do so by the Board, the Board may apply to the Judge of the District Court of any county where such witness is in attendance, upon proof by affidavit of the fact, for a rule or order returnable in not less than two (2) nor more than five (5) days, directing such witness to show cause before the Judge who made the order, or any other District Judge of said county, why he should not be punished for contempt; upon the return of such order the Judge before whom the matter shall come for hearing shall examine under oath such witness or person, and such person shall be given an opportunity to be heard; and if the Judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record or paper which he was ordered to bring or produce, he may forthwith punish the offender as for contempt of Court.

Subpoenas shall be served and witness fees and mileage paid as in

civil cases in the District Court in the county to which such witness shall be called. Witnesses subpoenaed at the instance of the Board shall be paid their fees and mileage by the Board out of funds herein appropriated.

Section 8. No person shall import into this State any liquor, in excess of one (1) quart, from any source unless a permit be first obtained from the Board, and any person so purchasing or importing liquor in violation of this Section shall be subject to the penalties as hereinafter provided. In addition to the penalties hereafter provided, any person violating the provisions of this Section shall forfeit the liquor so imported to the Board as herein provided.

Section 9. It shall not be necessary for any information, complaint or indictment to negative any exception contained in this Act concerning any prohibited Act; provided, however, that any such exception made herein may be urged as a defense by any person charged by such complaint, information, or indictment.

Section 10. Every applicant for a brewer's, distiller's, winery (except Class B wineries), rectifier's, wholesaler's, beer and wine wholesaler's, or package store permit, under this Act shall give notice of such application by publication for two consecutive days in a newspaper of general circulation published in the city or town in the county in which applicant's place of business is located, provided that in any county where no daily newspaper is published, such notice shall be published once a week for two consecutive weeks; in those counties in which no newspaper is published, the notice shall be published in a qualified newspaper published in the closest neighboring county. Such notice shall be printed in ten (10) point black face type, the cost of which notice shall be borne by the applicant. The Board may require of every applicant for a permit the recommendation in writing of the County Judge of the county of his residence and it shall take such recommendation into consideration before granting or refusing such license. The Board shall have authority to issue temporary permits for periods not exceeding ninety (90) days immediately following the passage of this Act, but not thereafter.

Section 11. The Board shall refuse to issue a permit to any applicant if it has reasonable grounds to believe and finds any of the following to be true:

(a) That an applicant to sell at retail has been provided with funds by or has any financial or business connection with a manufacturer of, or wholesale dealer in, liquor.

(b) That the applicant is in the habit of using alcoholic beverages to excess or habit-forming drugs.

(c) That the applicant has been convicted of violating any of the alcoholic liquor laws of this State, general or local, or of any rule or regulation promulgated in pursuance hereof.

(d) That there is any other reason which, in the opinion of the Board based on general welfare, health, peace, morals, and safety of the people, warrants its refusal to grant such permit.

(e) That the Board believes, or has reason to believe, that the applicant will sell, or knowingly permit any agent to sell liquor in dry territory.

Section 12. The Board and/or Administrator shall cancel or suspend after notice and hearing any such permit granted if it is found that any of the following is true:

(a) That the permittee has violated any provision of this Act or Acts amendatory thereof, or any valid rule or regulation of the Board.

(b) That the permittee had made any false representations or statements to the Board in order to induce or prevent action of the Board.

(c) That the permittee is not maintaining an acceptable bond.

(d) That any retail permittee is acting as an agent of a manufacturer or wholesaler of alcoholic liquors, or has borrowed money or property or accepted gratuities therefrom, or has any connection therewith.

(e) That the permittee maintains a noisy, lewd, disorderly, or unsanitary establishment, or has been supplying impure or otherwise deleterious beverages.

(f) That the permittee is insolvent or incompetent or physically unable to carry on the management of his establishment.

(g) That the permittee is in the habit of using liquor to excess or habit-forming drugs.

(h) That the permittee knowingly has sold liquor to persons under twenty-one (21) years of age, to persons known to be drunkards, or to persons visibly intoxicated at the time of sale.

(i) That the permittee has misrepresented to a customer or the public any liquor sold by him.

(j) That there is any other reason which, in the opinion of the Board, based on the general welfare, health, peace, morals, and safety of the people of the State, warrants cancelling or suspending such permit.

The governing authorities of any city or town or the Commissioners Court of any county shall have power to institute proceedings for the revocation or suspension of any permit granted hereunder. Such proceedings may be instituted by the filing of a complaint with the Board, and it shall be the duty of the Board to forthwith hear the same in accordance with the terms of this Act.

Notice of cancellation or suspension, stating the reason therefor, shall be served upon the permittee, or upon whatever person may be in charge temporarily, or otherwise, of the licensed premises, or shall be affixed to the outside of the door of the licensed premises, or shall be sent by United States registered mail addressed to the permittee at the licensed premises, and said cancellation notice shall be published by the Board once a week for three (3) consecutive weeks in the county in which the licensed premises are located, or if no newspaper is published in said county, in a newspaper in a neighboring county. Cancellation or suspension shall take effect upon the affixing, service, delivery, or first publication of such notice. Such affixing, service, or delivery, or publication of a cancellation or suspension shall be adequate notice to all parties concerned. The publication or posting of such notices shall be privileged.

In the event of resort to any Court from an order of cancellation or suspension in whatever form the proceedings may be brought, it shall in no wise act as a supersedeas of the order of cancellation or suspension. The permit so cancelled or suspended shall stand cancelled or suspended pending the final disposition of the proceedings as hereinafter conditioned. No refund of permit fees shall for any reason be made by the Board.

In addition to the other powers herein granted to it, the Board shall have power to suspend or cancel any license issued under the provisions of Article II of this Act for the violation of any applicable provision contained in either Article I or Article II of this Act, or for the violation of any rule or regulation promulgated in pursuance thereof. Suspensions or cancellations shall be had in the manner and to the effect prescribed in the preceding paragraph. The Board may summarily cancel any such license where the holder thereof is found in possession of spirituous liquors on the licensed premises in violation of Sections 3 (c) and 15 (r) of Article I of this Act.

All notices, orders, records, and publications authorized or required by the terms of this Act shall be privileged. It is further provided that the certificate of the Board or the Administrator concerning any rule or regulation or other order promulgated under the terms hereof shall be prima facie evidence of the validity thereof, and the same shall be admissible as evidence in all Courts in this State.

Section 13. Any permit granted under this Act shall be a purely personal privilege, good for the year in which issued, and ending on August 31st of each year at 12 o'clock midnight, and revocable for the causes herein stated, subject to appeal as hereinafter provided, and shall not constitute property, nor shall it be subject to attachment or execution, nor shall it descend by the laws of testate or intestate devolution, but shall cease upon the death of the permittee; provided, that the Board may, by regulation, provide for the time and manner in which the successor in interest of any deceased, insolvent, or bankrupt permittee may dispose of alcoholic liquors left on hand by the permittee.

Section 14. And in the event of any person being aggrieved by any decision, rule, or order of the Board, such person shall have the right of an appeal therefrom to the District Court of the County in which a decision, rule, or order in such case would become affective, said suit to be against the Board alone as defendant, and such suit shall be tried de novo, and be governed by the same rules as other suits in said Court, and during the pendency of such suit the order of the Board may be suspended

by interlocutory order of the Court pending a hearing on the merits. Such cause shall be tried before the Judge of such Court within ten (10) days after the docketing of the cause, or in the earliest possible time after such ten (10) day period, in the event the Judge is not able to try such cause within such ten (10) day period.

Section 15. Permits shall be of the following classes: Brewers, distillers, winery, rectifiers, wholesalers, beer and wine wholesalers, package stores, wine and beer retailers, agents, industrial, medicinal, carriers, private carriers, cartage, and storage.

(a) Brewer's Permit. A Brewer's Permit shall authorize the manufacture and sale of malt beverages containing alcohol in excess of four (4%) per centum by weight. The annual permit fee shall be One Thousand Dollars (\$1,000.00). It shall be unlawful for any person holding a brewer's permit to sell malt beverages to any person who is not the holder of a permit authorizing him to purchase such malt beverages under this Act except when such malt beverages are sold and delivered to persons in other states.

(b) Distiller's Permit. A Distiller's Permit shall authorize the manufacture of spiritous beverages containing alcohol in excess of four (4%) per centum by weight and the rectification of the same. Such permit shall also authorize the importation into this State of alcoholic spirits including ethyl alcohol for use in or as ingredients in the manufacture of alcoholic spiritous beverages, but for no other purpose, and in no event for resale in this State. It shall be unlawful for any person holding a distiller's permit to sell such spiritous beverages to any one other than the holder of a wholesaler's permit under this Act unless the same be sold and delivered to a person outside this State. The annual permit fee for distillers shall be One Thousand (\$1,000.00) Dollars.

(c) Winery Permits. A Winery Permit shall authorize the holder thereof to manufacture, bottle, package, and label wine; said permit shall also authorize the holder thereof to manufacture or import into the State grape brandy to be used exclusively for fortifying purposes by its holder on the premises for which issued.

The term "wine" whenever used in this Act, shall mean the product obtained from the normal alcoholic fermentation of the juice of sound ripe grapes, fruits and berries, (other than dried grapes, fruits and berries); or any such product fortified with grape brandy and containing not more than twenty-four (24) per cent of alcohol by volume. It shall be lawful for any person holding a winery permit to sell wine direct to any other permittee and to the ultimate consumer in unbroken packages for off premises consumption. The annual permit fee for such winery shall be Fifty (\$50.00) Dollars per annum.

A Class "B" Winery Permit shall authorize the holder thereof to manufacture, bottle, package, and label wine where the grapes, fruits, and berries used in the manufacture of said wine have been produced solely upon the premises of the person where such wine is manufactured. The annual permit fee for such class "B" winery shall be Ten (\$10.00) Dollars per annum.

Nothing in this Act shall be construed to prevent or prohibit the manufacture of wines by the fermentation of grapes, fruits and berries by an individual for his own consumption and where the same is not to be sold or offered for sale.

(d) Rectifier's Permit. For the purpose of this Act "rectifier" means and includes any person who rectifies, purifies, or refines distilled spirits or wines other than vermouth by any process other than as provided for on distillery premises, or who mixes such spirits, wine, or other liquors for sale under the name of whiskey, brandy, gin, rum, spirits, cordials, bitters, or any other name. A Rectifier's Permit shall authorize the rectification and sale of alcoholic spirituous liquors to the holders of wholesale permits only, unless such liquors are sold and delivered to persons outside the State. Such permit shall also authorize rectifiers to import into this State alcoholic spirits for exclusive use as ingredients in the preparation of alcoholic liquors, but shall not authorize the importation of any such spirits for resale without rectification. The annual permit fee shall be One Thousand (\$1,000.00) Dollars.

(e) Wholesaler's Permit. A Wholesaler's Permit shall authorize the

holder to purchase liquor from persons authorized by law to manufacture and sell the same in this State and to import such liquor from points outside the State and to sell the same to holders of permits in this State at wholesale. Such permit shall also authorize the holder thereof to sell and deliver such liquor to persons outside this State. It shall be unlawful for the holder of such permit to sell such liquor in this State to any other person than the holder of a permit lawfully entitling him to purchase and receive the same from such wholesaler. Except as is specifically authorized for rectifiers, beer and wine wholesalers and distillers, it shall be unlawful for any other person than the holder of a wholesaler's permit to import liquor into this State. A separate permit shall be obtained and a separate fee paid for each wholesale outlet in this State. Wholesale druggists possessing the necessary qualifications, as well as other qualified persons, shall be entitled to a wholesaler's permit. The annual permit fee shall be Twelve Hundred Fifty (\$1,250.00) Dollars.

(f) Beer and Wine Wholesaler's Permit. A Beer and Wine Wholesaler's Permit shall authorize the holder thereof to purchase alcoholic malt and vinous beverages containing alcohol in excess of four (4%) per centum by weight from brewers, wineries and wine manufacturers holding permits in this State, and to import such liquors from other States, and to sell the same at wholesale only to the holders of permits in this State who are authorized to purchase and receive the same; such permit shall also authorize the holder thereof to bottle, package or label wines purchased from wineries or wine manufacturers either within or without this State; such permit shall also authorize the holder thereof to sell and deliver such liquor to persons outside of this State. The annual fee shall be One Hundred (\$100.00) Dollars.

(g) Package Store Permit. A Package Store Permit shall authorize the holder thereof to purchase the liquor specified in the permit from the holders of winery, wholesaler's and beer and wine wholesaler's permits. Such permit shall authorize the holder to sell at retail to consumers in unbroken packages only and not for consumption on, at, or near the premises

where sold; provided, that a hotel as herein defined which has secured a Package Store Permit may deliver liquor at retail in unbroken packages to the rooms of bona fide guests of such hotel for consumption in such rooms. It shall be unlawful for the holder of a Package Store Permit to break or open any package or container containing liquor on, at, or near his premises, or to sell, barter, exchange, deliver, or give away any drink or drinks of liquor to any person from a package or container that has for any reason been opened or broken on, at, or near his premises, or to sell liquor in packages containing less than one-half pint; provided, however, that malt or vinous beverages may be sold in "splits," in containers of not less than six (6) liquid ounces capacity; provided that in the case of wines it shall be lawful for the holder of a Package Store Permit to sell the same not for consumption on the premises where sold in quantities of fifty-two (52) gallons, or less, per sale, and for that purpose may break or open any package, receptacle or container and transfer said wine to another receptacle, package or container of the same or different size. Provided further, that the vendor in all such cases shall affix to the receiving receptacle, package or container a stamp to be issued by the Board stating that the contents has been withdrawn from a tax-paid container.

Package stores shall not have curtains, hangings, signs or any obstruction which will prevent a clear view at all times of the interior of the store; provided, nothing contained herein shall prevent window display of drug merchandise by a drug store having a Package Store Permit.

Hotels and drug stores as hereinafter defined, as well as other qualified persons, may obtain package store permits. The annual permit fee for a package store permit shall be:

In cities and towns having a population of five thousand (5,000) inhabitants or less, according to the last preceding Federal Census, the fee shall be Fifty (\$50.00) Dollars; in cities and towns having a population of more than five thousand (5,000) and less than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, the fee shall be One Hundred Twenty-five (\$125.00) Dollars; in cities and towns having

a population of more than twenty-five thousand (25,000) and less than seventy-five thousand (75,000) inhabitants, according to the last preceding Federal Census, the fee shall be One Hundred and Seventy-five (\$175.00) Dollars; in cities and towns having a population of more than seventy-five thousand (75,000) inhabitants, according to the last preceding Federal Census, the fee shall be Two Hundred and Fifty (\$250.00) Dollars; the fee outside of incorporated cities and towns shall be Fifty (\$50.00) Dollars; provided that the annual fee for package store permit to sell wines only shall be: in cities and towns having a population of two thousand (2,000) inhabitants or less, according to the last preceding Federal Census, the fee shall be Five (\$5.00) Dollars; in cities and towns having a population of more than two thousand (2,000) and less than five thousand (5,000) inhabitants, according to the last preceding Federal Census, the fee shall be Seven and One-half (\$7.50) Dollars; in cities and towns having a population of more than five thousand (5,000) and less than ten thousand (10,000) inhabitants, according to the last preceding Federal Census, the fee shall be Ten (\$10.00) Dollars; in cities and towns having a population of more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census, the fee shall be Twelve and One-half (\$12.50) Dollars. The fee for a Package Store Permit for wine only outside the limits of an incorporated city or town shall be Five (\$5.00) Dollars.

The Board is prohibited from issuing more than five package store permits to any one person.

(h) Agent's Permit. No person shall act as agent or salesman for the sale of, or for taking or soliciting orders for the sale of, any liquor irrespective of whether such sale is to be made within or without the State unless such person shall have an Agent's Permit. In applying for such permit such agent shall set forth the name and address of each and every person whom he represents, and shall furnish such other information as may be required by the Board. It shall be unlawful for any agent to represent any person whose name does not appear upon said permit as his employer, or to act as agent or salesman for any person not named

therein. The annual fee for such permit shall be Five (\$5.00) Dollars.

(i) Industrial Permit. No provision of this Act shall apply to alcohol intended to be used for industrial, mechanical and scientific purposes. Industrial permits may be issued to persons desiring to import, transport and use alcohol for use in the manufacture and sale of any of the following, tax free:

- (1) Denatured alcohol;
- (2) Patent, proprietary, medicinal, pharmaceutical, antiseptic and toilet preparations;
- (3) Flavoring extracts, syrups, condiments and food products;
- (4) Scientific, chemical, mechanical, industrial, and medicinal products and purposes.

It shall be unlawful for any person to knowingly sell any of the products enumerated in paragraphs (1), (2), (3), and (4) for beverage purposes or to sell any of the same under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose.

It shall be unlawful for any person to purchase, transport, or use alcohol for any purpose enumerated in this Section unless and until he shall have secured an industrial permit; provided, however, that nothing in this Section shall restrict the purchase, sale or possession without any permit thereof of denatured alcohol by any person after the same has been so produced and so long as it shall retain its character as denatured alcohol. The annual fee for an Industrial Permit shall be Ten (\$10.00) Dollars.

(j) Carrier's Permit. The word "carrier" when used in this Section shall mean and include steam and electric railway carriers and common carrier motor carriers operating under a certificate of convenience and necessity issued by the Railroad Commission of Texas and/or such certificates issued by the Interstate Commerce Commission. The holder of such certificates shall be authorized to transport liquor into and out of this State and between points within this State. Such carriers shall furnish such information concerning the transportation of liquor into this State or between points in this State as shall be required of them by the Board. It shall be unlawful for any such carrier to transport and deliver liquor to any person in a dry area in this State unless the same be

for a lawful purpose as defined in this Act.

The restrictions contained in this Section shall not apply to steam railway carriers and certificated common carrier motor carriers when in the course of an interstate or foreign shipment of liquor it is necessary for them to cross this State in the course of such transportation.

Such a carrier shall be entitled to a Carrier's Permit upon payment of Five (\$5.00) Dollars.

(k) Private Carrier's Permit. Brewers, distillers, wineries, rectifiers, wholesalers, and beer and wine wholesalers, shall be entitled to transport liquor from the place of sale or distribution to the purchaser, upon vehicles owned in good faith by such permittees when such transportation is for a lawful purpose; provided, however, that such permittees shall not be permitted to engage in the business of transporting for hire such liquor in violation of the motor carrier laws of this State, and any such permittee desiring to engage in such business shall first secure a certificate or permit, as the case may be, from the Railroad Commission of Texas under the terms of the motor carrier laws, and shall be required to comply with the provisions of such laws. Motor vehicles used for such transportation shall be fully described in the application for a Private Carrier Permit and such application shall contain all information which shall be required by the Board. Motor vehicles used by such permittees for the transportation of liquor within this State shall have printed or painted on both sides of said vehicles the trade or business name of the holder of the permit and also the number of the Private Carrier Permit. It shall be unlawful for any such permittee above named to transport liquors in any vehicle not fully described in the application for the permit. Any such permittee violating any rule or regulation promulgated in pursuance of this Section shall have his private carrier permit cancelled and shall not be permitted to transport any liquor in any vehicles owned by him for a period of two (2) years. It shall further be unlawful for any such permittee to transport liquor without first having obtained a Private Carrier Permit.

The annual fee for such permit shall be Five (\$5.00) Dollars.

(l) Local Cartage Permit. The Board is hereby authorized to issue Local Cartage Permits to warehouse or transfer companies desiring to transport liquor for hire within the corporate limits of any city or town within this State. It shall be unlawful for any person to transport liquor within any city or town unless and until he shall have secured such permit or to transport the same in violation of the motor carrier laws of this State. In the case of local cartage, liquors shall not be transported by the holder of such Local Cartage Permit unless and until a description of the vehicle or vehicles used in such transportation shall be furnished as may be required by the Board; and each such vehicle shall be plainly marked or lettered in such manner as to plainly indicate that such vehicle is being used for the transportation of liquors by the holder of a Local Cartage Permit. The transportation of liquor by the holder of a Local Cartage Permit in any vehicle not so described and marked shall be unlawful and shall constitute grounds for the cancellation of such permit. In the event such Local Cartage Permit is cancelled for a violation of this provision or for violation of any rule or regulation promulgated in pursuance of this Section, such cancellation shall operate as a bar, both as against all of the vehicles owned and operated by such local cartage permittee, as well as against the holder of such permit for a period of two (2) years. It shall be unlawful for the holder of a Local Cartage Permit to transport liquor for hire between incorporated cities or towns in this State unless and until he shall have fully complied with the requirements of the motor carrier laws of this State governing the issuance of "carrier" permits. The annual fee for Local Cartage Permits shall be Five (\$5.00) Dollars.

(m) Storage Permit. The holders of brewery, distillery, winery, rectifier, wholesaler and beer and wine wholesaler permits shall be authorized to secure Storage Permits for one or more private warehouses for storage purposes at their place or places of business for liquors owned by them without being required to pay any additional permit fees. Such permit-

tees shall also be authorized to store liquors owned by them in public bonded warehouses that have secured storage permits as hereinafter provided. Each separate warehouse, public or private, used by any permittee for storage purposes shall be separately licensed. No permit shall be granted for the storage of liquor in any dry area. When liquors are stored by permittee at any warehouse, public or private, it shall be his duty to report the quantity and character of liquor so stored to the Board. Warehouses, both public and private, shall report to the Board within twenty-four (24) hours any and all withdrawals of liquor from storage, giving the quantity and character of liquor so withdrawn, by whom withdrawn, where and how shipped, together with a statement of the quantity and character of liquor remaining in storage to the credit of the account from which withdrawal was made, it being the intent of this Section to provide the Board with a perpetual inventory of liquor stocks in storage at all times. Permittees desiring to store liquors in public or private warehouses shall furnish all information which shall be required and observe all regulations which may be promulgated in pursuance of this Section. The annual permit fee to be paid by permittees for storage in public warehouses shall be Fifty (\$50.00) Dollars and no liquor shall be stored in other than warehouses which have secured a permit as herein after required.

All warehouses, both public and private, desiring to receive and store liquor for permittees shall apply for a permit and shall furnish such information concerning liquor stored and withdrawn from such storage as may be required under any rule or regulation adopted in pursuance of this Section. Such warehousemen shall give a surety bond in such amount as may be required of them. The annual permit fee for public warehousemen receiving and storing liquor shall be Fifty (\$50.00) Dollars and no permit shall be issued to a public warehouse other than a bona fide bonded warehouse that derives at least fifty per cent (50%) of its gross revenue from the storage and handling of household goods, or merchandise other than liquors. Annual permits for private warehouses may be issued to holders of brewery, distillery, winery, rectifier,

wholesaler, or beer and wine wholesaler permits, for the storage of their own liquors on their own premises without additional fees.

(n) Medicinal Permit. Retail druggists, hospitals, sanatoria and other like businesses and institutions shall be entitled to receive a permit to purchase and sell to qualified persons liquors for medicinal purposes. Medicinal Permits shall allow the holders thereof to purchase liquor for medicinal purposes from only wholesale druggists holding wholesaler's permits under subsection (e) of this Section. Such businesses and institutions shall secure permits before handling liquor and no such permits shall be issued for any other than strictly medicinal purposes; provided that any drug store applying for a permit shall have been in operation for a period of two (2) years prior to the date of such application; and provided, further, that nothing contained herein shall prohibit or interfere with bona fide drug stores or pharmacies obtaining a supply of alcohol for the manufacture of medicinal preparations unfit for beverage use, or the compounding of prescriptions in the practice of pharmacy. Nor shall anything contained herein prevent or prohibit bona fide or chartered schools, colleges, or universities from obtaining alcohol for scientific or laboratory use. Such businesses and institutions shall keep such records of sales and purchases as may be required by regulations issued in pursuance of this Section.

No liquors for medicinal purposes shall be dispensed, sold, or delivered to any person in this State except upon a prescription issued in the legitimate practice of medicine by a physician licensed to practice medicine in the State of Texas and who is not addicted to the use of any narcotic drug. Such physician shall not prescribe more than one quart of liquor to any person at any one time. A copy of each prescription issued by a physician shall be preserved by the pharmacist or druggist filling such prescription for a period of two (2) years. Any physician and/or druggist conspiring with a druggist or physician for the handling of prescriptions to be used for the dispensing of liquor for beverage purposes shall both be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than One Hundred (\$100.00) Dollars nor more than

One Thousand (\$1,000.00) Dollars, and each prescription so issued shall constitute a separate offense. Prescriptions for liquor must be signed by the physician, using his legal signature as he customarily signs it, and each prescription must bear the date and name and address of the patient. Prescriptions for liquor must be filled within twenty-four (24) hours after the time of issuance. Such prescription so filled shall be subject to inspection; and if any druggist or pharmacist shall sell any liquor without a physician's prescription therefor, or for any other purpose than medicinal purposes, his permit shall be cancelled and he shall be denied the right to handle liquor for medicinal or any other purpose for a period of two (2) years. Any physician who shall prescribe liquor for any other than medicinal purposes shall be denied the right to issue prescription for liquor for a period of two (2) years. Physicians desiring to issue prescriptions for liquor for medicinal purposes shall apply for and obtain a permit therefor. It shall be unlawful for a physician to issue a prescription for liquor for medicinal or other purposes unless and until he shall have obtained such a permit. The annual permit fee for physician's permit shall be Five (\$5.00) Dollars. The annual permit fee for druggist's or pharmacist's permits in dry areas shall be Fifty (\$50.00) Dollars; in wet areas the annual permit fee for druggists or pharmacists shall be the same as the annual permit fees for package stores in such areas.

(o) All permit fees levied by this Act except Wine and Beer Retailer's Permits shall be paid in advance for one year unless such fee be collected for only a portion of the year. In such event, the fee required shall cover the period of time from the date of the permit to midnight of August 31st succeeding, and only the proportionate part of the fee levied for such permit shall be collected. The fractional part of any month remaining shall be counted as one month in calculating the fee that shall be due.

(p) Except as to Agent's, Industrial, Medicinal, Carrier's, Private Carrier's, Local Cartage and Storage Permits, and as to such Wine and Beer Retailer's Permits as shall be issued to operators of dining cars, and Class "B" Winery Permits, the Commissioners Court of each County in the State shall

have the power to levy and collect from every person that may be issued a permit hereunder in said county a fee equal to one-half ($\frac{1}{2}$) of the State fee; and the city or town wherein the permittee is domiciled shall have the power to levy and collect a fee not to exceed one-half ($\frac{1}{2}$) of the State fee, but no other fee or tax shall be levied by either. But nothing herein contained shall be construed as preventing the levying, assessing, and collecting general ad valorem taxes on the property of the said persons.

(q) Wine and Beer Retailer's Permit. The Board is authorized to issue Wine and Beer Retailer's Permits. The holders of such permits shall be authorized to sell from broken packages or unsealed containers for consumption on the premises where sold, vinous and malt beverages containing in excess of one-half of one (1%) per centum of alcohol by volume, and not more than fourteen (14%) per centum of alcohol by volume.

The annual permit fee for such permit shall be Thirty (\$30.00) Dollars; provided that if same is issued for a railway dining, buffet or club car it shall be Five (\$5.00) Dollars for each car; provided, however, that such permit shall be inoperative in any dry area, as the same is defined in this Act.

Wine and Beer Retailer's Permits, except those to operators of railway dining, buffet or club cars, shall be applied for and fees paid in the manner provided in Article II of this Act for licensing retail beer dealers; and every Wine and Beer Retailer's Permit shall authorize the holder thereof to also sell beer containing not more than four (4%) per centum of alcohol by weight without need of separate license; provided, further, that all provisions of said Article II relating to refund of fees shall be applicable to such permits.

(r) No person holding a package store permit shall be issued a wine and beer retailer's permit or a beer retailer's license under Article II of this Act; nor shall a person holding a wine and beer retailer's permit or a beer retailer's license under Article II of this Act be issued a package store permit. It shall be unlawful for any person authorized to sell wine or beer for consumption on the premises where sold, to have in his possession on such premises any distilled spirits of any char-

acter and/or liquor produced by the process of distillation or liquor containing alcohol in excess of fourteen (14%) per centum by volume; provided, however, that the restrictions in this subdivision and in Section 3 (c) of this Act shall not apply to hotels so as to prohibit such hotels from holding package store permits as well as wine and beer retailer's permits; provided, that if any hotel or owner, operator, or manager thereof shall knowingly or carelessly permit to be used or drunk in any place covered by the wine and beer retailer's permit held by such hotel any intoxicating liquor not permitted to be sold under such wine and beer retailer's permit, the Board or the Administrator shall on a finding of fact by the Board or Administrator that such use or drinking has been so permitted, cancel and revoke both the package store permit and the retailers permit held by such hotel, and such hotel shall not be eligible for one year from the date of such cancellation to hold directly or indirectly either a retailer's permit or a package store permit. It shall be the duty of the Board to adopt rules and regulations absolutely segregating the conducting of business by hotels under such permits.

(s) All permits provided for in Article I of this Act, except wine and beer retailer's permits, shall be applied for and obtained from the Board. Notice of all such applications for permits (except wine and beer retailer's permits) shall be given to the County Judge of the County wherein applicant's place of business is located. Such notice shall be given by the Board. The Board shall prepare and furnish forms for all such applications. Each application shall be accompanied by a cashier's check or money order for the amount of the fee due the State, payable to the order of the State Comptroller. In the event such application be rejected, such check or money order shall be returned to the applicant.

(t) It shall be unlawful to issue a permit authorizing the manufacture, transportation or sale of liquor of a type, or of an alcoholic content which is illegal in the area where such permit is sought or where any act is to be performed thereunder which is illegal in the prescribed area.

Section 15a. Nothing in this Act shall be construed as limiting the right of any minister, priest or rabbi, or religious organization from obtaining

sacramental wine for sacramental purposes only, directly from any lawful source whatsoever, whether from within the limits of the State of Texas or from outside the State; nor shall any fee or tax be charged, directly or indirectly, for the exercise of this right. The Board shall have the power and authority to make rules and regulations concerning the importing of any such wine, for the purpose of preventing any unlawful use of such right.

Section 16. All bonds required by this Act shall be executed by a surety company duly authorized and qualified to do business in this State. The Board shall not cancel any surety bond until said surety company shall have paid and discharged in full all of its liability upon said bond to the State to the date of said cancellation. The holders of all permits except carriers and retailers of wine and beer and package store permittees authorized to sell wine only shall be required to make bonds in sums not less than One Thousand (\$1,000.00) Dollars and not exceeding Twenty-five Thousand (\$25,000.00) Dollars. The Board in its discretion may fix the amount of bond which shall be required for each class of permittees. All bonds required of permittees shall be payable to the State of Texas conditioned that so long as the applicant holds such permit unrevoked he will not violate any of the provisions of any of the laws of this State relating to the traffic in, transportation, sale or delivery of liquor or any of the valid rules or regulations of the Board, and in the case of such permittees as are required to account for taxes and fees that such permittees will account for and pay all permit fees and taxes levied by this Act.

Section 17. No person holding a permit under this Act that authorizes the retail sale of liquor, and no officer, employee, or agents thereof shall acquire or hold or own or possess either in his own name or in the name of any other person, by means of the ownership of corporate stock in a corporation, holding any wholesaler's permit, brewer's, distiller's, winery, rectifier's or beer and wine wholesaler's permit, or by means of any participating interest or other interest, or by means of any title or device or trusteeship or otherwise, any financial interest in or to any of said last named permits, or in and to the business thereof, or in

and to any company or corporation holding any such permits nor shall the holders of permits to distill, rectify, or manufacture liquor or engage in the business of selling such liquor at wholesale own any such interest in the business or premises of the holder of a permit authorizing the retail sale of liquor. The permit of any person authorizing him to sell liquor at retail who shall have any such interest in the business of any such permittee, or who shall knowingly permit any of his officers, employees or agents to so hold the same, shall be subject to cancellation by the Board.

Section 17a. It shall be unlawful for any person to sell or offer for sale in this State any alcoholic liquors under the name or brand of "whiskey," or that has printed or otherwise labeled upon the bottle or container containing such alcoholic liquor the term "whiskey," unless such alcoholic liquor be an alcoholic distillate from fermented mash of grain or be a combination, mixture or blend of such distillates from fermented grains, to which there has been added neither alcohol nor other spirits distilled from material other than grain. This Section does not apply to foreign types of whiskey that were manufactured in and in compliance with the laws of foreign countries.

Section 18. No person who has not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application therefor shall be eligible to receive a permit under this Act. No permit shall be issued to a corporation unless the same be incorporated under the laws of the State and unless at least fifty-one (51%) per cent of the stock of the corporation is owned at all times by citizens who have resided within the State for a period of three years and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic corporations, or to foreign corporations that were doing business in this State under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this Act which shall violate any

provision hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the Attorney General, when any such violation is called to his attention, to file a suit for such cancellation in a District Court of Travis County. Such provisions of this Section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's, industrial, medicinal and carrier's permits.

Section 19. If any permittee shall be convicted for the violation of any provision of this Act, or of any rule or regulation of the Board, and no appeal is pending, his bond shall be forfeited and the Board may, in its own name, institute action upon such bond for the benefit of the State. Upon proof of such conviction the Court before whom such suit is brought shall render judgment in favor of the Board for the amount of the taxes, fine, costs and fifteen (15) per centum of the face value of the bond, costs and disbursements.

Section 20. All persons having any liquor on hand in this State, shall, within thirty (30) days from the effective date of this Act, make a true inventory and report of such liquor to the Board and shall pay the taxes herein levied and assessed. Failure to report and pay the taxes on any such liquor shall render the same subject to confiscation by the Board as is herein provided, and shall operate as a bar to such person receiving any character of permit under this Act.

Section 21. There is hereby levied and imposed in addition to the other fees and taxes levied by this Act the following:

(a) A tax of eighty (80c) cents per gallon on each gallon of spirituous alcoholic liquor, sold or offered for sale in this State; provided the minimum tax on any package of spirituous alcoholic liquor shall be five (5c) cents.

(b) A tax of two (2c) cents on each gallon of still wine that does not contain over fourteen (14%) per cent of alcohol by volume sold or offered for sale in this State.

(c) A tax of five (5c) cents on each gallon of still wine containing more than fourteen (14%) per cent and not more than twenty-four (24%)

per cent of alcohol by volume sold or offered for sale in this State.

(d) A tax of fifty (50c) cents on each gallon of still wine containing alcohol in excess of twenty-four (24%) per cent by volume, sold or offered for sale in this State.

(e) A tax of twenty-five (25c) cents on each gallon of natural sparkling wines sold or offered for sale in this State.

(f) A tax of twenty-five (25c) cents on each gallon of artificially carbonated wine sold or offered for sale in this State.

(g) A tax of fifteen (15c) cents on each gallon of malt liquor containing alcohol in excess of four (4) per cent by weight sold or offered for sale in this State.

The tax herein levied shall be paid by affixing stamps on each bottle or container of liquor. Said stamps shall be affixed in strict accordance with any rule or regulation promulgated in pursuance of this Act.

It shall be the duty of the holders of wholesaler's, beer and wine wholesalers and winery permits to affix said stamps on each bottle or container of liquor and to cancel the same by writing or printing thereon his name except as otherwise herein provided. In the case of wines the stamp shall be affixed to the original container and no further stamps shall be required if a portion or the whole of said contents of said original container be removed for resale as provided for in this Act. In case any bottle containing liquor be enclosed in a sealed metal container the affixing and cancellation of said stamps may be governed by rules and regulations promulgated hereunder that may allow for the affixing of said stamps to such metal container; provided that when stamps have been once affixed, as provided in this Act, no other or further stamps shall be required, regardless of how often such liquor may be sold or resold within the State; provided further, that the stamps shall be affixed in such manner that their removal will require continued application of steam or water. Every holder of a wholesaler's permit shall, upon receipt of a shipment of liquor for sale within this State, under the provisions of this Act, within twenty-four (24) hours after receiving the same and before it is offered for sale, prepare a true invoice thereof and

give such other information in respect thereto as may be required by rules and regulations. Any holder of a wholesaler's permit, a distiller's permit, rectifier's permit, beer and wine wholesaler's permit, winery permit, or a brewer's permit, having in possession any liquor intended for shipment to any place without the State, shall keep such liquors in a separate compartment from that of liquors intended for sale within the State so that the same may be easily inspected and shall attach to each such package of liquor so intended for shipment without the State a stamp of the kind and character that shall be required by proper rule or regulation denoting that the same is not intended for sale within the State. When such liquors are so kept and so stamped no tax on account thereof shall be charged. For defraying the expenses thereof, a charge of the sum of twenty-five (25c) cents shall be made for every such stamp. All such permittees authorized to transport liquor beyond the boundaries of this State shall furnish to the Board duplicate copies of all invoices for the sale of such liquors within twenty-four (24) hours after such liquors have been removed from their place of business.

Section 21a. Stamps for spirituous liquor shall be issued only in multiples of the rate assessed for each half pint or fractional part thereof; stamps for wine shall be issued only in multiples of the rate assessed for each quart or fractional part thereof; stamps for malt liquors containing alcohol in excess of 4% by weight shall be issued in multiples of the rate assessed for each 12 fluid ounces, or fractional part thereof; provided that where any such liquors are contained in containers of 1-5 gallon, stamps shall be issued therefor at the assessed rate for each such type of liquor; provided further, the taxes herein levied and assessed shall be paid and collected by stamps as provided in this paragraph.

Section 22. If any permittee shall be convicted for the violation of any provision of this Act, or if he shall violate any valid rule or regulation of the Board, or shall fail to remit seasonably, any money due the State, his surety on his bond required under this Act shall be liable for all fines and costs imposed and for all taxes

due the State, and in addition thereto, a penalty amounting to fifteen (15%) per cent of the amount of the bond. When such conviction becomes final, or when such liability to the State occurs, or when any valid rule or regulation of the Board is violated, it shall be the duty of the Attorney General to institute suit on such bond for the benefit of the State, and when a recovery is had upon the bond, the judgment of the Court shall recite that the permit of the principal is forfeited. When a permittee has been convicted of violating any section of this Act, the Board shall forfeit such permit and no appeal from such action shall be allowed.

Nothing in this Act shall be construed to impose upon the surety or any such bond a greater liability than the total amount thereof or the amount remaining unextinguished by any prior recovery or recoveries, as the case may be.

The surety may terminate its liability under such bond by giving thirty days' written notice thereof, served either personally or by registered mail, to the principal and to the Board; and upon giving such notice the surety shall be discharged from all liability under such bond for any act or omission of the principal occurring after the expiration of thirty days from the date of service of such notice. Unless on or before the expiration of such period the principal shall duly file a new bond in like amount and conditioned as the original in substitution of the bond so terminated, the permit of the principal shall likewise terminate upon the expiration of such period.

Section 23. Whenever the term "dry area" is used in this Act it shall mean and refer to all counties, justice precincts, incorporated cities or towns wherein the sale of intoxicating liquors had been prohibited by valid local option elections held under the laws of the State in force at the time of the taking effect of Section 20, Article XVI, Constitution of Texas, in the year 1919. It likewise shall mean and refer to any such areas where such sale shall be prohibited under the terms of this or any other Act.

The term "wet area" shall mean and refer to all other areas of the State.

As to any particular type of liquor, each county, justice precinct, incorporated city or town within this State shall be deemed to be a "dry area" unless such county, justice precinct, city or town, was a "wet area" at the time Section 20 of Article XVI of the Constitution became effective and has not since said time changed its status, or unless the sale of that particular type of liquor has been legalized by local option election in such county, justice precinct, city or town, since said time.

The term "wet area" shall be construed as including in each particular instance only liquors of a type or liquors not exceeding in alcoholic content that which have been legalized by a valid local option election in the prescribed area.

The word "person" or "persons," whenever used in this Act, shall be held and construed to mean and include persons and firms, associations and corporations, whether acting by themselves or by a servant, agent or employee. The Courts of this State shall take judicial knowledge of the status of wet and dry areas as herein defined in any criminal prosecution instituted, either by complaint, information or indictment.

Section 23a. It shall be unlawful for any person to possess liquor for the purpose of sale in any dry area. Possession of more than one quart of liquor in such area shall be prima facie evidence that such liquor is possessed for the purpose of sale.

Section 24. In any city where the sale of liquor as herein defined is prohibited by its charter from being sold in its residence section, or any part thereof, such charter amendment shall remain valid and continue effective until such time as said charter provision may be repealed or amended as provided by law.

Section 25. No sale or delivery of liquor shall be made on or from the premises of the holder of any permit (except upon the prescription of a duly licensed physician):

(a) Between 12 o'clock p. m., and 7 o'clock a. m., on any day;

(b) On any day on which any election is being held either State or National, in the District in which the permittee is located;

(c) On any day on which an election either county or municipal, is

held in the municipality in which the permittee is located;

(d) On Sundays;

(e) The Commissioners Court of any county in the territory thereof outside of incorporated cities and towns and the governing authorities of any city or town within the corporate limits of any such city or town may prohibit the sale of intoxicating liquor by any dealer where the place of business of any such dealer is within three hundred (300) feet of any church school or other educational institutions, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

Section 26. It shall be unlawful to employ anyone to sell liquor who is under the age of twenty-one years; provided, however, that this shall not apply to cafes and dining rooms where drinks are sold, incidentally to the conduct of said business, not in excess of fourteen (14%) per cent of alcohol by volume, and drug stores lawfully selling liquor. It shall further be unlawful for any person to knowingly sell, any liquor to any person under the age of twenty-one years, or to any person who is visibly intoxicated, or to any person known to be an habitual drunkard or to any insane person.

Section 27. No person shall transport into this State or between points in this State upon any public highway any liquor unless the person accompanying and in charge of such shipment shall have present and available for exhibition such bills of lading, evidence of ownership, or shipment, as the Board may, by rules and regulations require, and no person shall refuse to exhibit or permit to be read or examined any such bill of lading, evidence of ownership, or shipment, by any agent or employee or deputy of the Board or any peace officer of this State.

Section 28. If any person shall forge or counterfeit or cause or permit to be forged or counterfeited any stamp, die, plate, official signature, certificate, evidence of tax payments, permit, license, or other instrument, or any part of any stamp, die, plate, official signature, certificate, evidence of tax payment, permit, license, or other instrument, which has been provided for in this Act or which shall

hereafter be provided for, or shall knowingly utter, use or pass the same, he shall be deemed guilty of a felony and shall be punished by confinement in the State Penitentiary for any term of years not less than one (1) nor more than five (5).

Section 29. Any room, building, boat, structure, or place of any kind where liquor is sold, manufactured, bartered, or given away in violation of this Act, or of any rule, or regulation of the Board, or where persons are permitted to resort for the purpose of drinking liquor in violation of the law, or any place where such beverages are kept for sale, barter, or gift in violation of law, and all liquor and all property kept and used in said place, hereby are declared to be a common nuisance and any person who maintains or assists in maintaining such common nuisances, shall be guilty of a violation of this Act. Any county, or district attorney, or the Board, or any agent or employee of this Board in the county where such nuisance exists, or is kept, or maintained, may maintain an action by injunction in the name of the State, or the Board to abate and to temporarily and permanently enjoin such nuisances. Such proceedings shall be guided by the rules of other injunction proceedings, except that the plaintiff shall not be required to give bond in such action and upon final judgment against the defendant the Court shall order that said room, house, building, structure, boat, or place of any kind shall be closed for a period of one year, or closed for a part of said time and until the owner, lessee, tenant, or occupant thereof shall give bond with sufficient surety, to be approved by the Court making the order, in the penal sum of not less than One Thousand (\$1,000) Dollars payable to the State, and conditioned that liquor will not thereafter be manufactured, possessed, sold, bartered, or given away, or furnished, or otherwise disposed of therein, or kept thereon, or therein, with the intent to sell, barter, or give away, or otherwise dispose of same contrary to law, and that he will pay all fines, costs, and damages assessed against him for any violation of this Act. If any conditions of such bond be violated the whole amount may be recovered as a penalty for the use of the county wherein the premises are situated.

Section 30. Any liquor found in the possession of any one in this State not having affixed to the bottle, or container the stamps required by this Act, except in the case of wines if satisfactory proof be given that the same has been withdrawn from a tax-paid container, or unless it has affixed to the bottle, or container a stamp stating that the same has been withdrawn from a tax-paid container (the board shall promulgate regulations for the affixing of such stamps), is hereby declared to be contraband and the same may be seized by the Board, or any one of its agents or employees, or by any peace officer, without warrant, and the Sheriff of the county in which such seizure is made shall take possession of said liquor so seized for sale at public auction to the highest bidder after due advertisement for a period of ten (10) days, but no sale shall be made to any person other than the holder of a wholesaler's or package store permit, and the Sheriff, before the delivery of any liquor so seized to any purchaser, shall require the purchaser to affix the proper amount of stamps to the individual containers as herein provided. Any other confiscation of liquor authorized by the provisions of this Article shall be handled in like manner. The costs of confiscation and sale shall be paid out of the proceeds derived from such sale. After the costs of such sale have been paid any balance remaining shall be remitted to the Board. It is further provided, that any liquor transported in violation of any provision of this Article shall be subject to confiscation and the same shall be sold in the manner herein provided. It is further provided, that no liquor of questionable purity and content shall be sold at public auction, but the same shall be destroyed by any officer so seizing the same upon an order of the District Court of the county where the same was seized if such Court be of the opinion that such liquor should, for such reason, be destroyed. It is further provided, that no liquor sold at public auction as herein provided shall be delivered within a period of five (5) days after such sale, during which time the Board may, in its discretion, reject any bids and order the liquor resold until a satisfactory bid is had.

Section 31. It shall be the duty of all peace officers of this State, including

city, county and State, to enforce all provisions of this Act and to assist the Board in detecting violations of this Act and apprehending offenders and of County Courts, in case of violation to make recommendations to the Board for revocation of permits. Whenever any officer shall arrest any person for violation of this Act, he shall take into his possession all liquor which the person so arrested has in his possession, or on his premises, which is apparently being used in violation of this Act. In the event the person so arrested is convicted finally, and it is found that the said liquor has been used in violation of this Act, the same shall be forfeited to the Board and shall be delivered by the Court, or officer, to it to be disposed of as herein provided.

Section 32. The Commissioners Court of each county in the State upon its own motion may order an election to be held by the qualified voters in said county, to determine whether or not the sale of liquors shall be prohibited or legalized in such county, any such Court shall order a local option election whenever petitioned to do so by as many as ten (10) per cent of the qualified voters of said county, or of any justice precinct, city or town, taking the votes for Governor at the last preceding general election as the basis for determining the qualified voters in any such county, or political subdivision. After the first local option election held as provided in this Act, in any county, justice precinct, incorporated town, or city, no subsequent election upon the same issue in the same political subdivision shall be held within one (1) year from the date of the preceding local option election in said county, or said political subdivision of said county.

Section 33. When the Commissioners Court shall order an election as herein provided for, it shall be the duty of said Court to order such election to be held at the voting places within such subdivision or county upon a day not less than ten (10) nor more than twenty (20) days from the date of said order, and the order thus made shall express the object of such election and shall be held to be prima facie evidence that all the provisions necessary to give it validity or to clothe the Court with jurisdiction to make it valid, have been duly complied with, provided that said Court

shall appoint such officers to hold such elections as now required to hold general elections.

Section 34. The Clerk of said Court shall post or cause to be posted at least one copy of said order in each election precinct in such political subdivision or county affected, for at least six (6) days prior to the day of election, which election shall be held and the return thereof made in conformity with the provisions of the General Laws of the State, and by the election officers appointed and qualified under such laws.

Section 35. (a) At said election the vote shall be by official ballot which shall have printed or written at the top thereof in plain letters the words "Official Ballot". Said ballot shall have also written or printed thereon the words "For the sale of liquor," and the words, "Against the sale of liquor," or words appropriate to the election ordered, and the Clerk of the County Court shall furnish the presiding officer of each such voting box within such subdivision or county with a number of such ballots, to be not less than twice the number of qualified voters at such voting boxes and the presiding officer of each voting box shall write his name on the back of each ballot before delivering the same to the voter and each person offering to vote at each election shall, at the time he offers to vote, be furnished by such presiding officer with one such ballot; and no voter shall be permitted to depart with such ballot and shall not be assisted in voting by any person except such presiding officer or by some officer assisting in the holding of such election, under the direction of such presiding officer when requested to do so by such voter.

(b) Those who favor the sale of liquor shall erase the words "Against the sale of liquor," by making a pencil mark through same, and those who oppose it shall erase the words "For the sale of liquor", by making a pencil mark through same. No ballot shall be received or counted by the officers of such election that is not an official ballot, and that has not the name of the presiding officer of such election written thereon in the handwriting of such presiding officer as provided by this Act.

Section 36. The officers holding such election shall, in all respects not herein specified, conform to the General

Election Laws in force regulating elections and after the polls are closed proceed to count the votes and within three (3) days thereafter make due report of said election to the aforesaid Court. The provisions of the General Election Laws shall be followed in calling and conducting said election where not inconsistent herewith.

Section 37. Said Court shall hold a Special Session on the fifth day after the holding of said election, or as soon thereafter as practicable, for the purpose of canvassing the votes and certifying the results, and if a majority of the voters are "Against the sale of liquor" said Court shall immediately make an order declaring the results of said vote, and absolutely prohibiting the sale of liquor within the said political subdivision after thirty (30) days from the date of declaring the results thereof, and thereafter until such time as the qualified voters therein may thereafter at the legal election held for such purpose by a majority vote decide otherwise; and the order thus made shall be held to be prima facie evidence that all the provisions of laws have been complied with in giving notice of and holding said election and counting and returning the votes, and declaring the results thereof.

Section 38. The order of said Court declaring the result and prohibiting the sale of liquor shall be published by the posting of said order at three (3) public places within the county or the political subdivision in which the election was held, which fact shall be entered by the County Judge on the minutes of the Commissioners Court. An entry thus made or a copy thereof certified under the hand and seal of the Clerk of Court shall be prima facie evidence of such posting.

Section 39. If a majority voting at such election vote "For the sale of liquor," the Court shall make an order declaring the results and have the same entered of record in the office of the Clerk of said Court, whereupon it shall be lawful in such political subdivision to manufacture, sell and distribute liquor in accordance with the terms of this Act until such time as the qualified voters therein may thereafter, at a legal election held for that purpose by a majority vote, decide otherwise, and the order thus made shall be held to be prima facie evidence that all the provisions of law

have been complied with in giving notice of and holding said election, counting and returning the votes and declaring the results thereof. It shall be the duty of the County Clerk, within three (3) days after the results of any such election have been declared to certify such results to the Secretary of State at Austin.

Section 40. The Commissioners Court upon its own motion may, or upon petition as herein provided shall, as provided in Section 32, order local option elections for the purpose of determining whether liquor of the various types and alcoholic contents herein provided shall be legalized or prohibited.

In areas where the issue or issues to be submitted pertain to the legalization of the sale of liquor, one or more of the following issues may be submitted:

(a) "For legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of four per cent (4%) by weight," and "Against legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of four per cent (4%) by weight."

(b) "For legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of fourteen per cent (14%) by volume," and "Against legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of fourteen per cent (14%) by volume."

(c) "For legalizing the sale of all liquors," and "Against legalizing the sale of all liquors."

In areas where the issue or issues to be submitted pertain to the prohibition of the sale of liquor of any type or types, one or more of the following issues may be submitted:

(a) "For prohibiting the sale of all liquors, except vinous and malt liquors that do not contain alcohol in excess of four per cent (4%) by weight," and "Against prohibiting the sale of all liquors, except vinous and malt liquors that do not contain alcohol in excess of four per cent (4%) by weight."

(b) For prohibiting the sale of all liquors, except vinous and malt liquors that do not contain alcohol in excess of fourteen per cent (14%) by volume," and "Against prohibiting the sale of all liquors, except vinous and

malt liquors that do not contain alcohol in excess of fourteen per cent (14%) by volume."

(c) "For prohibiting the sale of all liquors" and "Against prohibiting the sale of all liquors."

Section 41. Any person, whether as agent, employee or principal, who shall violate any provision of Article I of this Act except a provision for which a specific penalty is provided shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the County jail for not more than one year or by both such fine and imprisonment. In case any provision of Article I of this Act is violated by a corporation or by the executive officers of a corporation it shall be the duty of the Attorney General to institute appropriate proceedings to forfeit the charter of such corporation and on proof of such violation by such officer of such corporation the charter of such corporation shall be forfeited by appropriate order of the court hearing such proceedings.

Section 42. Any room, house, building, boat, vehicle, structure, or place where intoxicating liquor is manufactured, sold, kept, or bartered in violation of the laws of this State, and all intoxicating liquor and property kept and used in maintaining the same is hereby declared to be a common nuisance, and any person who maintains such a common nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than One Thousand (\$1,000.00) Dollars or be imprisoned in the county jail for not more than one year, or both. If a person has knowledge or reason to believe that his room, house, building, boat, vehicle, structure, or place is occupied or used for the manufacture or sale of liquor contrary to the provisions of the laws of this State, and suffers the same to be so occupied or used, such room, house, building, boat, vehicle, structure, or place shall be subject to a lien for and may be sold to pay all fines and costs assessed against the person guilty of such nuisance for such violation and any such lien may be enforced by action in any Court having jurisdiction.

Section 43. If a person shall have in his possession within this State any distilled liquors not contained in a container to which is affixed a stamp or other valid evidence showing the payment of the tax on such liquor due to the State of Texas, he shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten (\$10.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or be confined in the county jail not more than six months or both.

Section 44. When any peace officer charged with the duty of enforcing the criminal laws of this State, shall discover any person in the act of transporting in violation of the law any liquor in any wagon, buggy, automobile, water or air craft or other vehicle, it shall be his duty to seize any and all such liquor found therein transported contrary to law. Whenever liquor transported or possessed illegally shall be seized by an officer, he shall take possession of the vehicle and team or automobile, boat, air craft, water craft, or any other conveyance and shall arrest any person in charge thereof. Such officer shall at once proceed against the person arrested and all principals, accomplices and accessories to such unlawful act under the provisions of law in any Court having competent jurisdiction; but said vehicle or conveyance shall be returned to the owner upon execution by him of a good and valid bond, with suffieint sureties in sum double the value of the property, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial to abide judgment of the Court. The Court upon the conviction of the person so arrested shall order the liquor disposed of as provided in Section 30 of this Article, and unless good cause to the contrary is shown by the owner, shall order the sale by public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the fee for the seizure, and the costs of the sale, shall pay all liens, according to priorities, which are established, and by intervention or otherwise at said hearing or in other proceedings brought for said purpose, as being bona fide and as having been created without the lien or having any notice that the carrying vehicle was being

used or was to be used for illegal transportation of liquor and shall pay the balance of the proceeds into the Treasury of the State to the credit of the General Revenue Fund. All liens against property sold under this Section shall be transferred from the property to the proceeds of its sale. If, however, no one shall be found claiming the team, vehicle, water or air craft, or automobile, the taking of the same, with a description thereof, shall be advertised in some newspaper published in the city or county where taken, or if there be no newspaper published in such city or county, any newspaper having circulation in the county, once a week for two weeks and by hand bills posted in three public places near the place of seizure, and if no claimant shall appear within ten days after the publication of the advertisement, the property shall be sold and the proceeds after deducting the expenses and costs shall be paid into the Treasury of the State for the benefit of the General Revenue Fund.

All intoxicating liquors knowingly transported in this State upon which any lawful tax due to the State has not been paid, for the purposes of this Section shall be deemed to be transported contrary to law.

Section 45. (a) It shall be the duty of the State Treasurer and Board of Control to have engraved or printed the stamps necessary to comply with Section 21 of this Article and to sell same to all persons upon demand and payment therefore. The State Treasurer shall be responsible for the custody and sale of such stamps and for the proceeds of such sales under his official bond. Such stamps shall be of such design and denomination as the Board shall from time to time prescribe and shall show the amount of tax, the payment of which is evidenced thereby, and shall contain the words "Texas State Tax Paid."

(b) The sum of Five Thousand (\$5,000.00) Dollars or so much thereof as may be necessary, is hereby appropriated out of the General Fund with which to pay the costs of providing such stamps; providing that should such sum prove inadequate, it may be supplemented by funds herein appropriated to the Board. The Board is further authorized to expend all necessary funds from time to time to keep on hand an ample supply of such stamps. All contracts for stamps re-

quired by this Article shall be let by the Board of Control in the manner required by law.

(c) Any additional expense incurred by the State Comptroller or the State Treasurer for supplies or additional employees to perform the duties imposed by Articles I and II of this Act shall be compensated by the Board out of funds herein appropriated to it.

Section 46. Receipts from the sale of stamps, and receipts derived from the sale of permits provided for under Article I of this Act shall be deposited in the State Treasury as follows (unless otherwise specifically provided by law): One-fourth ($\frac{1}{4}$) to the credit of the Available School Fund, and three-fourths ($\frac{3}{4}$) to the credit of the Texas Old-Age Assistance Fund.

Section 47. For the purpose of enabling the Board to immediately begin the performance of its duties, there is hereby appropriated out of any money in the General Revenue Fund of the State, not otherwise appropriated, the sum of Twenty-Five Thousand (\$25,000.00) Dollars, and said sum shall be immediately available. It is hereby declared to be the legislative intent that no further appropriation shall be made to the Board but that the expenses of operation shall be paid out of the funds collected from fees and taxes imposed by this Act. The Board shall pay back to the General Revenue Fund all the money herein appropriated, out of the first available revenues realized by the provision of this Act. When the moneys herein appropriated have been returned to the General Revenue Fund, the Board is hereby authorized to set up a revolving fund in the sum of Fifty Thousand (\$50,000.00) Dollars to be taken out of revenues derived under the provisions of this Act. Said sum shall be used by said Board for the payment of salaries and other expenses necessary in performing its duties, and the same is hereby appropriated.

Section 48. The Board is hereby authorized to cause to be printed immediately ten thousand (10,000) copies of this Act in pamphlet form for distribution, and as many additional copies as may be required. It shall cause the same to be distributed to all District and County Attorneys in this State, to the several District Judges of the State, to the County

Judges of the various counties, and to such other officers and persons in this State as it may deem necessary. The expense of printing such copies shall be paid out of the fees and taxes herein levied and assessed.

Section 49. Chapter 7 of Title 11, Penal Code of Texas of 1925, and all amendments thereto are hereby expressly repealed. Title 80, Revised Civil Statutes, 1925, and all amendments thereto are hereby expressly repealed.

ARTICLE II

(Manufacture, sale and distribution of beer authorized; local option; "beer" defined)

Section 1. (a) The manufacture, sale and distribution of beer containing one-half ($\frac{1}{2}$) of one (1%) per cent or more of alcohol by volume and no more than four (4%) per centum of alcohol by weight is hereby authorized within the State of Texas.

Unless otherwise herein specifically provided by the terms of this Act, the manufacture, sale and distribution of beer, as hereinafter defined, shall be governed exclusively by the provisions of Article II of this Act. Chapter 116, Acts of the Regular Session, Forty-Third Legislature, and all amendments thereto, are hereby repealed.

(b) It shall continue to be unlawful to manufacture, sell, barter or exchange in any county, Justice's Precinct or incorporated city or town any malt liquor containing in excess of one-half ($\frac{1}{2}$) of one (1%) per cent alcohol by volume except in counties, Justice's Precincts or incorporated cities or towns wherein the voters thereof had not adopted prohibition by local option elections held under the laws of the State of Texas and in force at the time of taking effect of Section 20, Article XVI of the Constitution of Texas in 1919; except that in counties, Justice's Precincts or incorporated cities or towns wherein a majority of the voters have voted to legalize the sale of beer in accordance with the local option provisions of Chapter 116, Acts of the Regular Session of the Forty-Third Legislature, beer may continue to be sold lawfully. It is expressly provided, however, that local option elections may be held in any county, Justice's Precinct or incorporated city or town within this State in accordance with the pro-

visions of Sections 32 to 40 inclusive of Article I of this Act, for the purpose of determining from time to time whether the sale of beer shall be prohibited or legalized within the prescribed limits; and it shall be unlawful to sell beer in any county, Justice's Precinct or incorporated city or town wherein the same shall be prohibited by local option election, and lawful to sell beer under the provisions hereof in any county, Justice's Precinct, or incorporated city or town wherein the sale of beer shall be legalized by local option election.

(c) The word "beer" as hereinafter used in this Act and for the purpose of this Article, shall mean any malt beverage containing one-half ($\frac{1}{2}$) of one (1%) per cent or more of alcohol by volume and not more than four (4%) per centum of alcohol by weight. (Containers)

Section 2. (a) Beer can be manufactured, sold and distributed in barrels, kegs, bottles and other containers.

(b) As a standard of measure, the word "barrel" shall mean a container containing thirty-one (31) standard gallons.

(Definitions; general distributor's license)

Section 3. (a) A "manufacturer" is hereby defined to be any person licensed to manufacture or brew beer and to distribute and to sell same to others in the original package or container.

(b) A "general distributor" is hereby defined to be any person licensed to distribute or to sell beer to local distributors, retail dealers and/or others in the original package or container.

(c) A "local distributor" is hereby defined to be any person licensed to sell and distribute beer to retail dealers and ultimate customers in the county of his residence in unbroken packages not to be consumed on the premises where sold.

(d) A "retail dealer" is hereby defined to be any person licensed to sell beer in bottles and from kegs, barrels or other containers to the ultimate customer.

(e) A "general distributor" shall procure the primary license in the county of his domicile or residence, and if he desires to establish any place of business in any other county, he shall present his license secured

from the county of his residence to the Assessor and Collector of Taxes of such County, together with a license fee of Fifty (\$50.00) Dollars, and it shall be the duty forthwith of such Assessor and Collector of Taxes to issue a license for such general distributor in such county.

(f) A distributor, local or general, may maintain necessary warehouses, for storage purposes only, from which delivery may be made without such warehouse being licensed.

(g) "Person" shall include any corporation, partnership, association and person or group of persons.

(License)

Section 4. It shall be unlawful for any person to manufacture or brew for the purpose of sale or to sell or distribute any beer without first having applied for and secured a license as required by this Article.

(License fees and regulations)

Section 5. Before any license required by this Article shall be issued, the license fee required therefor shall be paid to the Assessor and Collector of Taxes of the County where such license is issued for the use and benefit of the General Fund of the State of Texas. Annual fees required for license authorized by this Article shall be as follows:

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| (a) For a license authorizing the manufacture and sale by a manufacturer | \$500.00 |
| (b) For a general distributor | 200.00 |
| (c) For a local distributor | 50.00 |
| (d) For a license authorizing the sale of beer by retail dealer for consumption on or off the premises where sold | 25.00 |
| (e) For a license authorizing the sale of beer by retail dealer in the original container direct to the consumer, but not for resale, and not to be consumed on the premises where sold | 10.00 |

(f) Any license issued under the terms of this Article authorizing the manufacture, distribution and sale of

beer shall terminate one year from the date issued, and no license shall be issued for a longer term than one (1) year. Any such license may be renewed by written application of the licensee filed with the Assessor and Collector of Taxes of the County of the licensee's residence, not more than thirty (30) days prior to the date of expiration of any license held by him. Such application shall be in writing, signed by the applicant and contain full and complete information as set out and required in the original application upon which such original license was issued, accompanied by a fee of Two (\$2.00) Dollars, which said sum of Two (\$2.00) Dollars shall be in addition to the amounts in this Article required to be paid for annual licenses, as a renewal fee charge. Such sums so paid as renewal fee charges shall be deposited in the County Treasury by the respective Assessors and Collectors of Taxes as fees of office and be so accounted for by them respectively. Upon the presentation of such application for renewal of license, together with the sums required by this Article for an annual license, plus the said renewal fee of Two (\$2.00) Dollars, it shall be the duty of the Assessor and Collector of Taxes to forthwith issue such renewal license upon the form to be prescribed by the Texas Liquor Control Board; provided, however, that no applicant for a license under the terms of this Article shall be required to pay at any one time more than the annual fees required for license hereunder and the renewal fee of Two (\$2.00) Dollars herein provided; but such applicant shall always be required to pay such fees in advance.

(g) No manufacturer, general distributor, local distributor or retail dealer shall carry on such business at more than one place under the same license, but a separate license must be obtained for each place of business, nor shall any such license be voluntarily assigned more than once, but before any assignee of such license can engage in business thereunder, he or they shall comply with the provisions of this Article governing the manufacture, sale and distribution of beer as required of original licensee, and provided further that the sale of such license, whether in the name of the original licensee or assignee, may

be made under execution of mortgage, and the holder of such license under execution of foreclosure shall have the right to surrender such license to the State or County which issued the tax receipt, which is the basis thereof, and shall receive therefor the pro rata unearned portion of such license, and appropriation of such funds as may be required for such refunds is hereby authorized, provided that should such original licensee or his assignee desire to change the place designated in said license he may do so by applying to the County Judge as in the case of the original application for license as herein provided. No licensee shall obtain any refund upon the surrender or non-use of any license for the manufacture, sale or distribution of beer.

(h) The Commissioners Court of each County in this State shall have the power to levy and collect from every person that may be licensed hereunder in said County a license fee equal to one-half ($\frac{1}{2}$) of the State fee; and the city or town wherein the licensee is domiciled shall have the power to levy and collect a license fee not to exceed one-half ($\frac{1}{2}$) of the State fee, but no other fee or tax shall be levied by either. But nothing herein contained shall be construed as preventing the levying, assessing and collecting general ad valorem taxes on the property of the said persons, individuals, partnerships or corporations so licensed.

(i) There is hereby provided a "Temporary License" authorizing the sale by a retail dealer of beer for consumption on or off the premises where sold. The fee for such "Temporary License" shall be Five (\$5.00) Dollars. Such licenses shall be issued by the Assessor and Collector of Taxes upon application approved by the County Judge, but no such permit shall be issued to any person who does not also hold a license as provided in sub-section (d) of this Section, and no such permit shall authorize the sale of beer at any point outside the county where same is issued. Any such temporary license shall expire at the end of the fourth day after the date the same is issued. Fees collected upon the issuance of such temporary licenses shall be retained by the County and no other fees shall be charged for such licenses; and no refund shall be al-

lowed upon the surrender or non-use of any such license. The County Judge shall issue such licenses only for the sale of beer at picnics, celebrations, or similar events, and may refuse to issue such license if in his judgment the issuance of the license would in any manner be detrimental to the public.

(j) Every license issued prior to the effective date hereof to any manufacturer, general distributor, local distributor or retail dealer, shall remain in force until midnight of December 31st, 1935, unless surrendered in the manner herein provided; provided, however, that the power and authority heretofore granted to the State Comptroller for the enforcement of Chapter 116, and the duties imposed upon him are hereby transferred to and imposed upon the Texas Liquor Control Board; and provided that the schedule of license fees provided in sub-sections (d) and (e) of this Section 5 shall not be effective until January 1, 1936.

(Beer tax; stamps)

Section 6. (a) There is hereby levied and assessed a tax at the rate of One Dollar and Twenty-four Cents (\$1.24) per barrel on all beer sold, stored or distributed in this State or imported into this State. On imported beer the duty of paying said tax and affixing and cancelling the tax stamp as required under this Article shall rest primarily on the importer, and it is hereby declared to be unlawful to import beer into this State unless said tax has first been paid and the tax stamp evidencing such payment has been first affixed and cancelled as required by this Article.

It is the intention of this Section to impose upon all persons importing beer into this State the duty of paying said tax and affixing said stamp as required by this Article before said beer is imported into the State. Provided, however, if it should be determined that this subsection imposes an undue burden on interstate commerce and for that reason is invalid, it is hereby declared to be the legislative intent, nevertheless, to levy and collect the tax at the rate herein prescribed upon all beer sold, stored or distributed in this State, or imported into this State, and the duty of paying this tax shall rest upon the first person receiving, selling, storing or distributing said beer in this State; pro-

vided, further, however, that the tax herein prescribed shall be paid but one time.

No manufacturer, however, shall be required to affix any stamps on any container of beer to be transported out of this State while same is stored in any brewery where same is brewed.

It shall be unlawful to transport to destinations in this State any beer upon which said tax has not been paid.

(b) Said tax shall be paid and evidenced by placing stamps as hereafter provided in the denomination required on each original barrel, keg, box, carton or other container in which beer in bulk or in bottles is packed; provided, however, that such container shall not contain more than the content of one (1) barrel of beer; and provided further that at the time such stamp is affixed, the person affixing the same shall by indelible ink or stamp cancel said revenue stamp by placing the date and his or its full name or initials on said revenue stamp.

(c) Provided further that if at the time said beer is received in this State, said stamps, as required by this Article have already been affixed and/or dated and initialed, the person receiving the same shall be relieved therefrom, but he shall not be relieved from dating or initialing the same if no initial or date appears on said stamp upon receipt of said beer.

(d) Said stamp shall be placed on each barrel, keg, carton, box, or other container upon which the stamp is required to be affixed in such way that such container cannot be conveniently and practically opened without mutilating or defacing said stamp. Every person opening any such container upon which a stamp has been placed shall at the time mutilate or otherwise deface such stamp so that the same cannot be used again.

(e) No bottled beer shall be stored in this State unless the same be in a container, unless the same is exposed for sale or is being cooled for sale, except when the same is legally in the possession of the ultimate consumer, nor shall any beer be stored or sold in this State except to the ultimate consumer, unless the same is packaged or contained in a container properly stamped.

(f) If any person has paid the tax on any containers of beer and affixed

stamps thereon, and thereafter said beer is shipped out of Texas for consumption, a claim for refund may be made on paying a fee of Five (\$5.00) Dollars to the Texas Liquor Control Board at the time and in the manner prescribed by such Board. So much of any funds derived hereunder as may be necessary not to exceed two (2%) per centum thereof is hereby appropriated for such purpose. The Board may promulgate rules and regulations generally for the enforcement of this Article.

(g) There shall be levied and collected by the Board on all beer placed in warehouses or stored in this State an inspection fee at the rate of Fifty (50c) Cents per barrel; provided, that any manufacturer of this State who shall have during the current year paid for a manufacturer's license under this Act shall be exempt from payment of the inspection fee; provided, however, that this inspection tax shall not be levied upon beer manufactured in a state that does not levy a similar tax upon beer manufactured in Texas and sold in such state.

(Tax to be paid and stamps affixed at source)

Section 7. It is the purpose and intent of this Article to require the tax to be paid and the stamp evidencing the same to be affixed on the first sale, distribution, storage or transportation and at the source, to the end that it will preclude any person evading the payment of this tax, and so as to relieve as nearly as possible the consumer and retail dealer from having to affix said stamps.

(Printing or engraving stamps; appropriation)

Section 8. (a) It shall be the duty of the State Treasurer to have engraved or printed the stamps necessary to comply with this Article and to sell same to all persons upon demand and payment therefor, and one-fourth ($\frac{1}{4}$) of the proceeds of such sale shall be placed to the credit of the State Available School Fund and three-fourths ($\frac{3}{4}$) to the Texas Old-Age Assistance Fund, and the State Treasurer shall be responsible for the custody and sale of such stamps and for the proceeds of such sales under his official bond. Such stamps shall be of such design and denomination as the Board shall from time to time prescribe and shall show the amount of

tax, the payment of which is evidenced thereby, and shall contain the words "Texas State Tax Paid."

(b) The sum of Five Thousand (\$5,000.00) Dollars or so much thereof as may be necessary, is hereby appropriated out of the General Fund with which to pay the costs of providing such stamps; provided, that should such sum prove inadequate it may be supplemented by funds herein appropriated to the Board. The Board is further authorized to expend all necessary funds from time to time to keep on hand an ample supply of such stamps. All contracts for stamps required by this Article shall be let by the Board of Control in the manner required by law. All appropriations of monies authorized by the Forty-Fourth Legislature, Regular Session, 1935, for enforcement of the provisions of Chapter 116, Acts Regular Session, Forty-Third Legislature, by the Comptroller of Public Accounts, are hereby transferred and made available for expenditure by the Texas Liquor Control Board in the enforcement of this Article.

Section 9. (1) It shall be unlawful for any manufacturer or distributor directly or indirectly or through a subsidiary or affiliate, any agent or any employee, or by any officer, director or firm member:

(a) Ownership of Interest or Real Estate: To own any interest in the business of any retail dealer in beer, or any interest of any kind in the premises in which any such retail dealer conducts his or its business.

(b) Retail Licenses: To hold (after the expiration of any existing licenses) the ownership or any interest in any license to sell brewery products for consumption on the premises covered by such license, except the license of manufacturers to dispense their own products on the brewery premises.

(c) Loans and Guaranties: To furnish, give or lend any money or other thing of value, except signs, or to extend unusual credit terms, to any person engaged in selling brewery products for consumption on the premises where sold, or to any person for the use, benefit or relief of said person engaged in selling as above or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged in selling as above. The extension of credit

for longer period of time than is generally extended to regular customers of a manufacturer or distributor covering the purchase of brewery products from such manufacturer or distributor shall be deemed unusual credit terms.

(d) Consignment Sales: To make or enter into any agreement or contract, the effect of which will amount to the shipment or delivery of brewery products on consignment. "Consignment", as here used, means the delivery of products under an agreement whereby the person receiving such products has the right at any time prior to sale to relinquish possession to or return them to the shipper, and whereby the title to such products remains in the shipper.

(e) Equipment and Fixtures: To furnish, give, rent, lend or sell any equipment, fixtures or supplies to any person engaged in selling brewery products for consumption on the premises where sold. This subsection does not apply to such equipment, fixtures or supplies furnished, given, loaned, rented or sold prior to the effective date of this Act, except that such transactions made prior to this date are not to be used as a consideration for an agreement thereafter made respecting the purchase of brewery products; provided, that equipment, fixtures or supplies furnished, given, rented, loaned or sold to any person engaged in selling brewery products for consumption on the premises where sold, prior to the effective date of this Act, when removed from the premises of such person or repossessed by any manufacturer or distributor of brewery products, or by his agents or employees, shall not again be furnished, given, rented, loaned or sold to any person engaged in the sale of brewery products for consumption on the premises where sold.

This subsection shall not apply to the practice of furnishing carbonic acid gas or tapping accessories, such as rods, vents, hose, washers, couplings, taps, vent tongues, and check valves to persons engaged in selling brewery products for consumption on the premises where sold, when a charge is made for such carbonic acid gas in accordance with the reasonable open market value thereof in the locality where furnished, and if the aggregate cost to any one person of all tapping accessories herein enumer-

ated furnished to him by such manufacturer or distributor in any twelve months' period does not exceed five dollars for each tapping unit used in dispensing brewery products purchased from such manufacturer or distributor.

(f) Allowances and Rebates for Advertising and Distribution Service: To pay or make any allowance to any buyer for a special advertising or distribution service (1) Unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (2) Unless such service is rendered and the payment is reasonable and not excessive in amount; and (3) Unless such contract is separate and distinct from any sales contract; and (4) Unless such payment is equally available for the same service to all competitive buyers in the same class in the same trade area.

(g) Prizes and Premiums: To offer any prize, premium, gift, or other similar inducement, except advertising novelties of nominal value, to any dealer in or consumer of brewery products.

(h) Advertising: To publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical or other publication or by any sign or outdoor advertisement or any other printed or graphic matter, any advertisement of any brewery product, if such advertisement causes, or is reasonably calculated to cause deception of the consumer with respect to the product advertised. An advertisement shall be deemed misleading if it is untrue in any particular or if directly or by ambiguity, omission, or inference, it tends to create a misleading impression. Any advertisement of alcoholic content of any brewery product or any advertisement disparaging of a competitor's products, or that is obscene or indecent, shall be unlawful.

(i) Misbranding: To sell or otherwise introduce into commerce any brewery product that is misbranded. A product is misbranded:

(1) Food and Drug Act Requirement—If it is misbranded within the meaning of the Food and Drug Acts.

(2) Standards of Fill—If the container is so made, formed or filled as to mislead the pur-

chaser, or if its contents fall below the recognized standards of fill.

(3) Standards of Quality—If it misrepresents the standard of quality of product in the branded container.

(4) Labels—If it is so labeled that it purports to be any product other than is actually in the container.

(j) Exclusive Outlet: To require, by agreement or otherwise, that any retailer engaged in the sale of brewery products shall purchase any such products from such persons to the exclusion, in whole or in part, of the products sold or offered for sale by any other person engaged in the manufacture or distribution of brewery products, or to require the retailer to take and dispose of a certain quota of any such product.

(k) Commercial Bribery: To give or permit to be given money or anything of value in an effort to induce agents, employees, or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase brewery products from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting with competitors.

(l) Returnable Container: It shall be unlawful for any manufacturer to accept as a return or to purchase or use a hogshead, barrel, half-barrel, keg, case or bottle permanently branded or imprinted with the name of another manufacturer.

(m) Labeling: To manufacture or sell or otherwise introduce into commerce in this State any brewery product unless it bears a label showing in plain, legible type the name and address of the manufacturer, or the name of the distributor for whom any special brand is manufactured, the brand or trade name, and the net content of the bottle in terms of United States liquid measure; or to manufacture or sell or otherwise introduce into a commerce in this state any beer or container or dispensing equipment, carton or case for beer bearing a label or imprint which by wording, lettering, numbering or illustration, or in any other manner carries any reference or illusion, or suggestion to the alcoholic strength of the prod-

uct or to any manufacturing process, ageing, analysis or scientific matter or fact, or upon which appears any such words or combination of words, or abbreviations thereof, as "strong", "full strength", "extra strength", "high test", "high proof", "pre-war strength", "full old time alcoholic strength", or any words or figures or other marks or characters alluding or relating to "proof", "bailing" or "extract" contents of the product, or which bears a label that is untrue in any particular or which directly or by ambiguity, omission or inference tends to create a misleading impression or causes, or is reasonably calculated to cause, deception of the consumer or buyer with respect to the product.

(2) It shall be unlawful for any retail dealer to dispense any draft beer unless each faucet or other dispensing apparatus is equipped with a sign clearly indicating the name or the brand of the particular product being at the time dispensed through each faucet or other apparatus, which sign shall be in legible lettering and in full sight of the purchaser.

(3) Provided, that if any provisions of this Section 9 is for any reason held unconstitutional and invalid, such decision shall not affect the validity of the remaining portions, and the Legislature hereby declares that it would have passed this Section, and each subsection, provision, sentence, clause or phrase thereof, irrespective of the fact that any provision is declared unconstitutional.

(Procedure to obtain license)

Section 10. (a) Any person desiring a license as manufacturer, distributor or retail dealer may in vacation or in term time file a petition with the County Judge of the county in which the applicant desires to engage in such business, which petition shall state as follows:

If a manufacturer:

(1) That he is a law abiding, tax-paying citizen of this State, over twenty-one (21) years of age; that he has not been convicted of a felony within two (2) years immediately preceding the filing of said petition, and has been a resident of the county wherein such license is sought for more than two (2) years next preceding the filing of said petition.

(2) If a co-partnership, that all of the individuals have the same quali-

fications as provided in paragraph (1) above.

(3) If a corporation, that applicant is organized and chartered under and has complied with all corporation laws of this State applicable to such corporation; the principal place of business in such county where such license is sought, and the President or Manager shall make an affidavit that he is a law-abiding, tax-paying citizen of this State, over twenty-one (21) years of age, and that he has not been convicted of a felony within two (2) years immediately preceding the filing of said petition.

If a distributor:

(1) Such applicant shall give the same information required of a manufacturer, including the place or places where such business is to be transacted.

If a retail dealer:

(1) The same information required of a manufacturer.

(2) Whether he desires to sell beer for consumption on or off the premises.

If an individual:

(1) That the applicant shall make an affidavit duly signed and sworn to before any person authorized to administer oaths under the laws of this State, showing that he has not since the effective date of this Act, naming the date in the affidavit, and within two (2) years next preceding the making of said application and while engaged in the manufacture, sale or distribution of beer, paid, contributed or furnished any money or thing of value to any candidate for any public office in this State.

If the application is in behalf of a corporation, the affidavit shall be by the President, vice-president, secretary or treasurer of such corporation and shall contain a statement that the corporation has not paid, contributed or furnished any money or thing of value to any candidate for any public office in this state since the effective date of this Act, naming the date in the affidavit, and within two (2) years next preceding the making of said application and while engaged in the business of manufacturing, sale or distribution of beer. Any person who makes a false affidavit in reference to the matters and things required by this Section, shall be guilty of a felony, and upon conviction shall

be punished as now provided by law for having committed the offense of false swearing.

(b) Such manufacturer, distributor, or retail dealer desiring to be licensed shall file said petition with the County Judge who shall set same for a hearing at a date not less than five (5) nor more than ten (10) days from the filing of same, and if upon hearing, he finds the facts stated in such petition are true, he shall authorize a license to be granted as prayed for, provided, however, that upon the filing of such petition, the clerk shall first give notice thereof by posting at the courthouse door a written notice of the filing of said petition and a copy of the substance thereof, and such notice shall state when the petition shall be heard. Said petition may be inspected by any person. Any citizen shall be permitted to contest the facts stated in said petition and the applicant's right to secure license upon giving security for all costs which may be incurred in such suit, should the same be decided in favor of the applicant; provided, however, no county or district attorney shall be required to give bond for such costs, but the county or State as the case may be shall be liable therefor.

(c) Upon the court's authorizing a license to be issued the Judge shall so certify and deliver a copy of such certification to the applicant, who shall thereupon present the same to the Assessor and Collector of Taxes and pay the fee required, whereupon it shall be the duty of the Assessor and Collector of Taxes to issue such a license on a form prescribed by the Texas Liquor Control Board showing the amount paid, date, classification and such other information that may be required by the Board, including the correct address of the place of business. A copy of such license shall be sent by the Assessor and Collector of Taxes forthwith to the office of the Texas Liquor Control Board and a record thereof kept in said office.

(d) In the event the County Judge denies the application for a license, he shall enter his judgment accordingly and the applicant may within thirty (30) days thereafter appeal to the District Court of the County where said application is made, and such District Court may hear and determine such appeal in term time or vacation by trial de novo. If the ap-

plicant shall prevail by final judgment, a certified copy thereof shall be presented to the Assessor and Collector of Taxes, who shall thereupon accept the fees required and license shall be issued as provided herein.

(e) Any manufacturer, distributor or person shipping or consigning beer into this State shall file with the Secretary of State a certificate certifying the name of his agent upon whom service may be had, his or its street address and business, and if such shall not have been done within fifteen (15) days from the effective date hereof then service may be had on the Secretary of State in any cause of action arising out of the violation of this Article governing the manufacture, distribution and sale of beer, and it shall be the duty of the Secretary of State to send any such citation served on him to such person who may be in foreign state, registered, return receipt requested and such receipt will be prima facie evidence of service on such person.

(Form of license; statements by Assessor and Collector of Taxes)

Section 11. (a) Upon the payment of the fee to the Assessor and Collector of Taxes and the proper evidence from the County Judge that such applicant should be licensed, such Assessor and Collector shall issue to the applicant the proper license which shall be by him signed, be under the seal of his office, be dated, state on its face for what it is issued, date when it will expire, by whom and where such business is to be conducted and shall describe the place where same is to be kept and whether licensee is authorized to act as manufacturer, general distributor, local distributor, or retail dealer of beer as set out in the application.

(b) The Assessor and Collector of Taxes shall make statements to the Texas Liquor Control Board of the amounts collected by him at the times and in the manner as required by the Board.

(Penalty)

Section 12. (a) If any person manufactures or sells beer in this State as a manufacturer, distributor or retail dealer without then and there being licensed as a manufacturer, distributor or retail dealer respectively, or,

(b) If any person or agent or representative of any manufacturer, distributor or retail dealer shall manufacture or sell beer for any manufacturer, distributor or retail dealer without such manufacturer, distributor or retail dealer being duly licensed as required by law, or,

(c) If any person shall sell, transport, store or otherwise handle in intrastate commerce, or conspire to sell, transport, store or otherwise handle in intrastate commerce any beer without the stamp required in Section 6 of this Article being placed on the container as required in such Section, or,

(d) If any person shall open any such container having a stamp without then and there mutilating or otherwise defacing such stamp so that it cannot be again used, or,

(e) If any person shall attach to any container of beer any stamp that has been theretofore attached to a different container of beer, or,

(f) Shall refuse to allow on demand the Texas Liquor Control Board or any representative of said Board to make a full inspection of any place where beer is being stored, transported, manufactured or otherwise handled, or,

(g) If any person shall knowingly or willfully sell any beer to any person under the age of twenty-one (21) years, or,

(h) If any person fails to display any license required by the provisions of this Article in some conspicuous place in the house where such business is conducted, or,

(i) If any person shall sell or offer for sale in this State, whether as principal or agent, any beer unless the same be in or from the original container bearing the original label with the full name of the brewer or manufacturer of such beer, or the name and address of any distributor for whom a special brand is manufactured, both upon the label or bottle and/or upon the cap or cork of such bottle or upon the keg, or,

(j) If any person shall employ any person under the age of eighteen (18) years to sell, handle or dispense, or to assist in the selling, handling or dispensing of beer in any establishment where beer is sold by retail to be consumed on the premises where sold, or

(k) If any person shall violate any provision of this Article whether specifically enumerated above or not,

(l) He shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine in the sum not less than Twenty-five (\$25.00) Dollars and not more than Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail not more than one year or by both such fine and imprisonment, except when some other penalty is specifically provided by this Article, in which event the penalty specifically provided shall apply to the specific act or omission.

(Records; penalty; other regulations)

Section 13. (a) Each manufacturer and distributor shall be required to keep records of the amount of beer manufactured and/or bought or received by them and the amount sold, the amount of stamps purchased by him and the amount of stamps used by him and such other records as may be required to be kept by the Texas Liquor Control Board which records at all times shall be open to the inspection of the Board or by its duly authorized representatives at reasonable office hours.

(b) If any person shall commit any offense prescribed by Section 13 or violate any other provision of this Article, he shall also forfeit to the State a penalty not less than Fifty (\$50.00) Dollars nor more than Five Hundred (\$500.00) Dollars to be recovered by the State in a suit filed in Travis County or in any county in which such violation may have occurred, which money shall be paid into the State Available School Fund, and each day of such violation shall constitute a separate and distinct violation.

(c) Each sale to any person under twenty-one (21) years of age under the provisions of this Article shall constitute a separate offense.

(d) It shall be unlawful for any person in all counties or subdivisions thereof wherein the sale of beer is defined by this Article is authorized to be sold, to sell beer on the day of any general primary election or general election held in this State, between the hours of seven o'clock a. m. and eight o'clock p. m. of the day, and

(e) It shall be unlawful for any person engaged in or having any in-

terest in any business which manufactures, sells or distributes beer, as defined in this Article, to contribute any money or any other thing of value toward the campaign expenses of any candidate for any office in this State.

(f) No person who may engage in the sale of beer, as a principal business and which is to be consumed on the premises, under the provisions of this Article shall offer for sale or sell such beer between the hours of twelve o'clock midnight and seven o'clock a. m. on each day as herein provided, and from and after twelve o'clock midnight Saturday until seven o'clock a. m. Monday of the following week.

(g) The Commissioners Court of any county in the territory thereof outside of incorporated cities and towns and the governing authorities of any city or town within the corporate limits of any such city or town may prohibit the sale of beer by any dealer whose principal business is the sale of beer where the place of business of any such dealer is within three hundred (300) feet of any church, school or other educational institutions, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

(h) The County Judge of any county after ten (10) days notice and hearing may revoke the licensee of such county:

1. When disorderly or immoral practices are permitted on the premises, or spirituous, vinous or malt liquors are illegally sold on the premises.

2. Where the word "saloon" is printed, painted or placed upon the door, window or in any other public place on or about the premises, or when the word "saloon" is used in any advertisement by the licensee.

(Counterfeiting stamps)

Section 14. Any person, other than the State Treasurer or his duly authorized agent who shall print or engrave or directly aid in or cause the printing or engraving of any stamp or stamps evidencing or purporting to evidence the payment of any tax levied by this Act governing the manufacture, distribution and sale of beer, or who shall use or consent to the use of any counterfeit or unauthorized stamps in connection with the sale or offering for sale of any beer, or shall place or

cause to be placed on any container containing or to contain such beer any such unauthorized or counterfeit stamps, or if any person shall knowingly possess any counterfeit stamps or shall counterfeit any license to be used in lieu of the stamps or license required by this Article governing the manufacture, distribution and sale of beer, he shall be guilty of a felony and upon conviction be punished by imprisonment in the penitentiary for not less than two (2) years nor more than five (5) years.

(Penalty for unlawfully permitting opening or consuming beer on premises where sold)

Section 15. Any person, whether as principal or agent of any firm, corporation or association of persons engaged in the business of manufacturing and selling or in the business of distributing and selling or in the retail business of selling beer under license which does not permit such beer to be opened and consumed on the premises where sold, who shall permit any such beer so manufactured and sold or distributed and sold to be opened and consumed on the premises where sold, shall be guilty of a misdemeanor and upon conviction, be punished by a fine of not less than Fifty (\$50.00) Dollars, nor more than Five Hundred (\$500.00) Dollars.

(Forfeiture of license)

Section 16. In addition to the penalties herein provided, the license of any person convicted of violating any of the provisions of this Article governing the manufacture, sale and distribution of beer shall be subject to forfeiture in a suit filed by the State for such purpose by reason of such conviction; and no license shall be re-issued to any person whose license for any of such occupations has been revoked or forfeited within one (1) year next preceding the filing of his application for a new license.

(Effect of forfeiture of license)

Section 17. In case the license of any licensee hereunder is forfeited under the provisions of this Article, nevertheless such licensee shall be authorized to sell or dispose of in bulk any stock of beer he may have on hand at the time such license is forfeited.

(Transportation of beer)

Section 18. It is hereby declared to be lawful to transport beer, as herein

defined, from any place in this State, where the sale, manufacture and distribution of said beer is authorized by law, to any other place within this State where the same may be lawfully manufactured, sold or distributed; and from the State boundary to any such place, even though in the course of such transportation the route over which the same is being transported may traverse local option territory in which the manufacture, sale and distribution of said beer is prohibited. Provided, however, that any such shipments must be accompanied by a written statement furnished and signed by the shipper showing the name and address of the consignor and the consignee, the origin and destination of such shipment and it shall be the duty of the person in charge of such cargo while it is being so transported to exhibit such written statement to any peace officer making demand therefor, and said statement shall be accepted by such officer as prima facie evidence of the lawful right to transport such beer.

(Refunding fee for unexpired term.)

Section 19. In all cases where any person pursuing the occupation of selling beer containing not more than four (4%) per centum of alcohol by weight under licenses issued in accordance with the laws of this State has been or shall hereafter be prevented from pursuing such occupation for the full time to which he would be otherwise entitled by reason of the adoption of local option in any county or subdivision thereof, the proportionate amount of license fees paid by him for the unexpired term shall be refunded to him.

(Obstructing view of interior of places of business.)

Section 20. No "blind" or barriers of any kind or character shall be installed or maintained in the openings or doors of any establishment whose principal business is the sale of beer; neither shall any windows on said establishments be painted in such a way as to obstruct the views from the general public.

Section 21. Upon having called to his attention by affidavit of any credible person that any person is violating, or is about to violate, any of the provisions of this Article governing the manufacture, distribution and sale of

beer, it shall be the duty of the Attorney General or the District or County Attorney to assist in any proceedings to restrain any such person from the threatened or any further violation, and the District Judge shall have authority to issue restraining orders without hearing, and upon notice and hearing to grant injunction, to prevent such threatened or further violation by the person complained against, and may require the person complaining to file a bond in such amount and containing such conditions and in such cases as the Judge may deem necessary. Upon any judgment of the Court that violation of any restraining order or injunction issued hereunder has occurred, such judgment shall operate to cancel, without further proceedings, any license held by the person who is defendant in the proceedings, and no license shall be re-issued to any person whose license has been so cancelled, revoked or forfeited, within one (1) year next preceding the filing of his application for a new license. It shall be the duty of the District Clerk to notify the Assessor and Collector of Taxes and the Texas Liquor Control Board of any judgment of a Court which may operate hereunder to cancel a license.

Section 21a. It shall be unlawful for any person paid a salary or per diem or receiving any compensation out of the appropriation made or taxes collected under the terms of this Act to engage in or take part in any political campaign. By engaging in a political campaign or taking part in a political campaign is meant and shall include distributing circulars, handbills, posting pictures, handing out cards, making speeches or soliciting support for or opposing the election of any candidate for any public office. Any such employee engaging in such inhibited and unlawful conduct shall be subject to removal from his position and restraint from re-employment in such department for a period of one (1) year by a judgment in the district court of the county wherein such unlawful activity occurred, either in whole or in part. Any ten (10) or more qualified resident voters of such county shall have authority to institute a suit in a district court of such county praying for the removal of such employee from such department, citing such

employee and any member of the Board and, upon final hearing, the allegations of the petition being sustained, the judgment shall be to discharge the employee and to restrain the department from re-employing such employee for a period of one (1) year from the date of the judgment.

In like manner, any member of the Board who shall violate this Section or who shall solicit, ask or suggest to any employee, either directly or through any other person, that such employee violate such section, then and in that event such Board member may be removed by quo warranto proceedings in the district court upon the relation of any ten (10) qualified voters of the county in which such violation occurred. The writing of a letter into any county wherein such letter violates or suggests, asks or solicits a violation of this law shall constitute sufficient grounds for removal in any county through which such letter passed or into which such letter passed.

Section 22. If any part, section, subsection, paragraph, sentence, clause, phrase or word contained in either Articles I or II of this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

Section 23. The fact that the people of Texas have adopted a Constitutional Amendment legalizing the sale of liquor in wet areas as herein defined and the further fact that the traffic in liquor in this State is unregulated at this time, create an emergency and an imperative public necessity that the constitutional rule, requiring all bills to be read on three several days in each House, be suspended, and such rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Respectfully submitted,

PACE,
ONEAL,
SMALL,

On the part of the Senate.

PETSCH,
MOFFETT,
BRADBURY,

On the part of the House.

Mr. Tennyson moved a call of the House for the purpose of maintaining a quorum until the Conference Committee Report on House Bill No. 77, is disposed of, and the call was duly ordered.

On motion of Mr. Tennyson, the Sergeant-at-Arms was instructed to bring in all absent members within the city who are not ill.

Mr. Petsch moved that the Report be adopted.

Mr. Morse moved, as a substitute for the motion by Mr. Petsch, that the Report be not adopted and that a new conference committee be appointed to adjust the differences between the House and Senate, on House Bill No. 77.

Mr. Bradbury moved to table the substitute motion by Mr. Morse.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—88

Adamson	Graves
Adkins	Gray
Aikin	Hardin
Alexander	Harris of Archer
Alsup	Head
Ash	Hodges
Atchison	Huddleston
Beck	Hunt
Bourne	Hunter
Bradbury	Hyder
Bradford	Jones of Atascosa
Broyles	Jones of Shelby
Burton	Jones of Wise
Butler of Brazos	Keefe
Cagle	Lanning
Calvert	Latham
Canon	Leath
Cooper	Lemens
Cowley	Lindsey
Craddock	Lotief
Crossley	Lucas
Daniel	Luker
Davis	Mauritz
Davison of Fisher	McConnell
Davisson	McFarland
of Eastland	Moffett
Dunlap of Hays	Morris
Dunlap of Kleberg	Morrison
England	Palmer
Fain	Payne
Farmer	Petsch
Fisher	Reed of Bowie
Fox	Riddle
Gibson	Roach of Angelina
Glass	Roach of Hunt

Roark	Venable
Rogers	Waggoner
Russell	Walker
Sessions	Wells
Shofner	Westfall
Stinson	Wood of Harrison
Stovall	Wood of Montague
Tarwater	Worley
Tennyson	Youngblood
Tillery	

Nays—55

Bergman	Jefferson
Butler of Karnes	Jones of Falls
Caldwell	King
Celaya	Knetsch
Clayton	Leonard
Collins	McCalla
Colquitt	McKee
Colson	McKinney
Dickison	Moore
Duvall	Morse
Dwyer	Newton
Ford	Padgett
Frazer	Patterson
Fuchs	Pope
Good	Quinn
Greathouse	Reader
Hankamer	Reed of Dallas
Hanna	Roane
Harris of Dallas	Roberts
Hartzog	Rutta
Herzik	Scarborough
Hill	Settle
Hofheinz	Smith
Holland	Spears
Hoskins	Stanfield
Howard	Thornton
Jackson	Young
James	

Absent

Dunagan	Steward
Olsen	

Absent—Excused

Fitzwater	Nicholson
Lange	

Question then recurring on the motion of Mr. Petsch, that the Report be adopted, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—107

Adamson	Beck
Adkins	Bergman
Aikin	Bourne
Alexander	Bradbury
Alsup	Bradford
Ash	Broyles
Atchison	Burton

Butler of Brazos	Lindsey
Butler of Karnes	Lotief
Cagle	Lucas
Calvert	Luker
Canon	Mauritz
Cooper	McConnell
Cowley	McFarland
Craddock	Moffett
Crossley	Morris
Daniel	Morrison
Davis	Padgett
Davison of Fisher	Palmer
Davisson	Patterson
of Eastland	Payne
Dunagan	Petsch
Dunlap of Hays	Quinn
Dunlap of Kleberg	Reed of Bowie
England	Riddle
Fain	Roach of Angelina
Farmer	Roach of Hunt
Fisher	Roark
Ford	Roberts
Fox	Rogers
Frazer	Russell
Gibson	Rutta
Glass	Scarborough
Graves	Sessions
Gray	Settle
Greathouse	Shofner
Hardin	Smith
Harris of Archer	Spears
Head	Stanfield
Hodges	Steward
Huddleston	Stinson
Hunt	Stovall
Hunter	Tarwater
Hyder	Tennyson
Jones of Atascosa	Tillery
Jones of Falls	Venable
Jones of Shelby	Waggoner
Jones of Wise	Walker
Keefe	Wells
Lanning	Westfall
Latham	Wood of Harrison
Leath	Wood of Montague
Lemens	Worley
Leonard	Youngblood

Nays—39

Caldwell	Hartzog
Celaya	Herzik
Clayton	Hill
Collins	Hofheinz
Colquitt	Holland
Colson	Hoskins
Dickison	Howard
Duvall	Jackson
Dwyer	James
Fuchs	Jefferson
Good	King
Hankamer	Knetsch
Hanna	McCalla
Harris of Dallas	McKee

McKinney	Reader
Moore	Reed of Dallas
Morse	Roane
Newton	Thornton
Olsen	Young
Pope	

Absent—Excused

Fitzwater	Nicholson
Lange	

Mr. Davison of Fisher moved to reconsider the vote by which the Conference Committee Report was adopted, and to table the motion to reconsider.

The motion to table prevailed.

REASONS FOR VOTE ON CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 77

We voted against the adoption of the Conference Committee Report on House Bill No. 77 for the same reasons as stated and shown on page 225 of the House Journal of the Second Called Session of the Forty-fourth Legislature, and in addition, for the reason that we are of opinion that this Conference Report represents the greatest legislative fraud ever perpetrated upon the people of the State of Texas.

HANKAMER,
JACKSON,
McKEE,
JEFFERSON,
CLAYTON,
HARTZOG,
REED of Dallas,
HARRIS of Dallas.

I am voting for House Bill No. 77 as it is the only means offered at this late hour to collect revenue on whiskey.

I consider the bill a monstrosity and it fails to properly protect local option districts.

CROSSLEY.

I vote "yea" on the motion to accept the Conference Committee Report on House Bill No. 77 for the following reasons:

"While I am still of the opinion that this measure is about the worst, most useless and futile liquor regulation bill it would be possible to pass, I think the measure should have 100 votes to put it into effect at once, thus insuring the State to start receiving immediately what little revenue the measure does provide, and I, therefore,

in view of these considerations vote "yea" on the final acceptance of the Conference Report.

JACK PADGETT.

MESSAGE FROM THE SENATE

Austin, Texas, November 14, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has adopted the following:

H. C. R. No. 31, Correcting Conference Report on Senate Bill No. 5.

Adopted the Conference Committee Report on House Bill No. 116 by the following vote:

Yeas 15, nays 5; 1 present not voting.

Adopted the following:

H. C. R. No. 30, Instructing the Enrolling Clerk of the Senate to make corrections in the Conference Report on Senate Bill No. 5.

H. C. R. No. 33, Instructing the Enrolling Clerk of the Senate to amend the Conference Report on Senate Bill No. 5.

Adopted the Conference Committee Report on Senate Bill No. 15 by the following vote:

Yeas 17, nays 7; 1 present.

Respectfully,

BOB BARKER,
Secretary of the Senate.

RELATIVE TO CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 46

Mr. Calvert offered the following resolution:

Whereas, The Conference Committee on House Bill No. 46 has been appointed and under the Rules of the House may not now be instructed; and

Whereas, Under the instruction given it appears unlikely that the Committee will be able to agree upon a bill which will raise the needed revenue; now, therefore be it

Resolved, That it is the sense of the House, and the House members of the Conference Committee are advised, that a bill which levies a reasonable tax on luxuries is and would be acceptable to the House of Representatives.

CALVERT,
LEATH.

The resolution was read second time.

Mr. Jones of Wise offered the following amendment to the resolution:

Amend Calvert resolution by striking out the period at end of resolution and adding the following:

"If the report includes a reasonable income tax provision."

JONES of Wise,
DANIEL.
LUCAS.

Mr. Aikin moved to table the resolution.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—77

Adamson	Jones of Shelby
Adkins	Jones of Wise
Aikin	Keefe
Atchison	Lanning
Beck	Latham
Bourne	Mauritz
Bradbury	McCalla
Broyles	McConnell
Burton	McFarland
Cagle	McKee
Canon	Morse
Colquitt	Newton
Colson	Padgett
Cooper	Palmer
Crossley	Patterson
Davison of Fisher	Payne
Dickison	Reader
Dunlap of Hays	Reed of Bowie
Farmer	Reed of Dallas
Ford	Roach of Hunt
Fox	Roark
Fuchs	Rogers
Gibson	Russell
Graves	Rutta
Greathouse	Settle
Hanna	Shofner
Hardin	Smith
Harris of Dallas	Spears
Hartzog	Stanfield
Head	Stovall
Herzik	Tarwater
Hodges	Tennyson
Hofheinz	Waggoner
Holland	Wood of Harrison
Hoskins	Wood of Montague
Hunter	Worley
Jackson	Young
Jefferson	Youngblood
Jones of Falls	

Nays—66

Alexander	Ash
Alsop	Bergman

Butler of Brazos	King
Butler of Karnes	Knetsch
Caldwell	Leath
Calvert	Lemens
Celaya	Leonard
Clayton	Lindsey
Collins	Lotief
Cowley	Lucas
Craddock	Luker
Daniel	McKinney
Davis	Moffett
Davisson	Moore
of Eastland	Morris
Dunagan	Olsen
Duvall	Petsch
Dwyer	Pope
England	Quinn
Fain	Riddle
Fisher	Roach of Angelina
Frazier	Roane
Glass	Roberts
Good	Scarborough
Gray	Sessions
Hankamer	Steward
Harris of Archer	Stinson
Hill	Thornton
Howard	Tillery
Huddleston	Venable
Hunt	Walker
Hyder	Wells
James	Westfall
Jones of Atascosa	

Absent

Bradford	Morrison
Dunlap of Kleberg	

Absent—Excused

Fitzwater	Nicholson
Lange	

REASONS FOR VOTE

I vote "aye" on the Calvert resolution to "advise" the Conference Committee on House Bill No. 46 that the House favors a "luxury tax" feature in the tax bill.

My reason for so voting is that I have always favored the principle of tax payment according to the taxpayers' ability to pay. A proper tax on luxuries is in accordance with this principle. I have always supported luxury tax bills and would favor at this time a tax on luxuries for the payment of the old age pensions—thus sharing the wealth of the more fortunately situated with those in need of assistance. This is the fairest tax available at this late hour when adjournment threatens all tax measures.

LEMENS.

I voted "aye" on the motion to table the motion by Mr. Calvert for the reasons heretofore given in the House Journal of Nov. 12, 1935, and for the additional reason that no committee could write and bring back a fair and just bill in the few remaining hours until adjournment. Although this motion dealt only with a luxury tax, yet the definition of what a luxury might be is greatly disputed and this in a manner would have permitted the inclusion of a sales tax in the report. The House originally passed a general tax bill which would have produced some money and I do not believe the State of Texas has yet been forced to a sales tax.

FOX.

I voted against tabling the Calvert resolution because I am not opposed to a sales levy confined to luxuries.

FISHER.

I voted against the "Calvert Resolution" to House Bill 46, because, to vote for it, would be a vote to saddle a "sales tax" upon the poor people of this State. The Conference Committee has, previously, been instructed to not bring in a bill with a sales tax tied to it, and the real purpose of this resolution is to release these instructions in order that they may bring in a "sales tax."

They first called it a "sales tax"; then changed it to a "gross receipts tax" and now they call it a "luxury tax." We should pay the pensions from our natural resource taxes, practically all of which is exported from Texas.

JESSE E. ROACH.

(Mr. Morse in the Chair.)

CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 15

Mr. Dunagan submitted the following Conference Committee Report on Senate Bill No. 15:

Committee Room,
Austin, Texas, November 14, 1935.

Hon. Walter F. Woodul, President of the Senate,
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sirs: We, your Committee appointed to adjust the differences in Senate Bill No. 15, have had same under consideration, and beg leave to report same back with recommendation that said

Senate Bill No. 15 do pass in the form attached hereto.

S. B. N. 15

A BILL

To Be Entitled

An Act defining certain terms; providing for licensing of operators and chauffeurs; providing for certain exemptions; prohibiting issuance of licenses to certain persons; making provision for non-resident drivers; providing what persons shall be licensed; providing for application for operator's and chauffeur's licenses; providing for signing of application of minors; providing for qualification of applicants; providing for designation of local officers; providing for registering of operators and chauffeurs; providing for the issuance of duplicate licenses and badges; providing for the signing of licenses; providing for time of expiration of licenses; providing for fees and disposition of same; providing for the transfer of all balances now in the State Treasury which were collected under Article 6687, Revised Civil Statutes, 1925, to the Operator's and Chauffeur's License Fund; making an appropriation of all funds coming into said Operator's and Chauffeur's License Fund; providing the purposes for which said funds may be expended, and the manner in which payments may be made; providing for forms for accident statistics and reports; providing a penalty for failure to make such reports; providing for the suspension or revocation of licenses; making it unlawful for certain persons to act as chauffeurs or operators and to drive school buses; providing for courts to report record of convictions; providing for mandatory suspension or revocation of licenses and fixing the period of same; providing for hearing for persons denied the right to drive a motor vehicle; providing for surrender and return of license or badge; making it unlawful to commit certain acts with reference to securing and/or using licenses or to violate certain provisions; providing a penalty for violation of the Act; imposing a fine and jail sentence for driving while suspended; repealing all laws and parts of laws in conflict herewith, and particularly Article 6687, Revised Civil Statutes, 1925;

providing a saving clause, and declaring an emergency.

Be It Enacted by the Legislature of the State of Texas:

Section 1. Definitions: The following words and phrases when used in this Act shall for the purpose of this Act have the meanings respectively ascribed to them in this section except in those instances where the context indicates a different meaning:

(a) "Vehicle": Every self-propelled device upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively on stationary rails or tracks.

(b) "Motor Vehicle": Every vehicle as herein defined, which is self-propelled.

(c) "Farm Tractor": Every motor vehicle designed and used primarily as a farm implement for drawing plows, sowing machines and other implements of husbandry.

(d) "Implements of Husbandry": The words "implements of husbandry" shall mean farm implements, machinery and tools as used in tilling the soil, namely: cultivators, farm tractors, reapers, binders, tractors, combines, or mowing machinery, but shall not include any automobile or truck.

(e) "Person": Every natural person, firm, co-partnership, association, corporation, or person, jointly and severally, who are members of any firm, co-partnership, association or corporation, or persons.

(f) "Operator": Every person, other than a chauffeur who is in actual physical control of a motor vehicle upon a highway.

(g) "Chauffeur": Every person who is employed for the principal purpose of operating a motor vehicle; and every person who drives a motor vehicle while in use for hire.

(h) "Non-resident": Every person who is not a resident of this State.

(i) "Highway": Any road, street, way, thoroughfare or bridge in this State, not privately owned or controlled, for the use of vehicles over which the State has legislative jurisdiction under its police power.

(j) "Department": The Department of Public Safety of the State of Texas acting directly or through its duly authorized officers or agents.

Section 2. Operators and Chauffeurs Must be Licensed:

On and after April 1, 1936, no person except those expressly exempt under this Act shall drive any motor vehicle upon a highway in this State unless such person upon application has been licensed as an operator or chauffeur by the department under the provisions of this Act.

Section 3. What Persons are Exempt from License:

(a) No person shall be required to obtain an operator's or chauffeur's license for the purpose of driving or operating a road roller, road machinery or any farm tractor, implement of husbandry, farm wagon, farm trailer or any non-motor propelled vehicle or carriage temporarily drawn, moved or propelled on the highway.

(b) Every person in the service of the United States and when furnished with a driver's permit and when operating an official motor vehicle in such service shall be exempt from license under this Act.

(c) Drivers of commercial motor vehicles operating under the jurisdiction of the Railroad Commission of Texas who are required to have a driver's license issued by that department, shall not be required to secure a chauffeur's or operator's license under the terms of this Act for the operation of such vehicles, but such person shall be amenable to the other provisions of this law incident to the cancellation of chauffeurs' or operators' licenses.

(d) A non-resident over the age of sixteen (16) years who has been duly licensed either as an operator or chauffeur under a law requiring the licensing of operators or chauffeurs in his home state or county and who has in his immediate possession either a valid operator's or chauffeur's license issued to him in his home state or county shall be permitted without examination or license under this Act to drive a motor vehicle upon the highways of this State.

(e) A non-resident over the age of sixteen (16) years whose home state and county does not require the licensing of operators may operate a motor vehicle as an operator only, when temporarily in this State for a period of time not exceeding ninety (90) days, and the Department, through its agents, on request of such non-resident shall issue without charge, cour-

tesy, non-resident driver's license for such period of time as such non-resident may request, not exceeding ninety (90) days. The Department shall make suitable forms and prescribe reasonable regulations for the issuance of such non-resident licenses.

(f) Any non-resident or other person whose operator's or chauffeur's license or right or privilege to operate a motor vehicle in this State has been suspended or revoked as provided in this Act shall not operate a motor vehicle in this State under a license, permit or registration certificate issued by any other jurisdiction, or otherwise operate a motor vehicle in this State during the period of such revocation. Any person operating a motor vehicle in violation of this section shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 22 of this Act.

Section 4. What Persons Shall Not Be Licensed:

(a) An operator's license shall not be issued to any person under the age of fourteen (14) years and no chauffeur's license shall be issued to any person under the age of eighteen (18) years; provided, that the county judge of the county wherein such person resides, after investigation may authorize the Department to issue a special permit or license to any such person when in his opinion the person so applying is qualified and conditions exist which make it necessary for such person to drive or operate a motor vehicle upon a highway.

(b) Neither an operator's or chauffeur's license shall be issued to any person whose license, either as operator or chauffeur, has been suspended during the period for which such license was suspended; nor to any person whose license, either as operator or chauffeur, has been revoked under provision of this Act until the expiration of such revocation as provided in Section 18.

(c) Neither an operator's or chauffeur's license shall be issued to any person who is an habitual drunkard or is addicted to the use of narcotic drugs.

(d) Neither an operator's or chauffeur's license shall be knowingly issued to any applicant who has previously, by a court of competent jurisdiction, been adjudged insane or an idiot, imbecile, epileptic, or feeble-minded, and who has not at the time of such ap-

plication been restored to competency by judicial decree or released from a hospital for the insane or feeble-minded upon a certificate of the superintendent that such person is competent.

(e) Neither an operator's or chauffeur's license shall be issued to any person when in the opinion of the Department such person is afflicted with or suffering from such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways, nor shall a license be issued to any person who is unable to understand highway warnings or direction signs in the English language; provided, however, no person shall be refused a license because of any physical defect unless it be shown by common experience that such defect incapacitates him from safely operating a motor vehicle.

Section 5. Application for Operator's or Chauffeur's License:

(a) Every application for an operator's or chauffeur's license shall be made upon approved form furnished by the Department and shall be verified by a person authorized to administer oaths, and no fee shall be charged by any officer of this State, or any county thereof, for such certification.

(b) Every application shall state the name, age, sex, residence address and such other physical description as may be required of the applicant and whether or not the applicant has heretofore been licensed as an operator or chauffeur, and if so when and by what State, and whether or not such license has ever been suspended or revoked, and if so, the date of and reason for such suspension or revocation.

Section 6. Application of Minors:

The Department shall not grant the application of any minor under the age of eighteen (18) years for an operator's license unless such application is signed by the father of the applicant, if the father is living and has the custody of the applicant, otherwise by the mother or guardian having the custody of such minor, or in the event a minor under the age of eighteen (18) years has no father, mother or guardian, the operator's license shall not be issued to the minor unless his application therefor is

signed by his employer, or by the county judge of his residence.

Section 7. Designation of Local Officers:

(a) In all counties of the State of Texas having a population of 75,000 or less, as may be determined by the last preceding Federal Census, the assessor and collector of taxes is hereby designated as an agent of the Department, with authority to issue any and all licenses and renewals thereof and to qualify applicants as required hereunder. In counties having a population of 75,000 or over, as determined by the last preceding Federal Census, the Department is hereby authorized to designate or name as an agent the assessor and collector of taxes, sheriffs, chiefs of police, town marshalls, or any highway patrolman, with full authority to conduct inquiries and issue licenses hereunder. In the event a highway patrolman is named as an agent for any county, he shall be required to be at the office of the assessor and collector of taxes of said county at all times during the office hours in order that licenses may be issued thereunder. Where licenses are issued by the assessor and collector of taxes he shall be allowed a fee of five (5) cents for each instruction permit, operator's or chauffeur's license, and each renewal and duplicate thereof so issued by him, which fee shall be an accountable fee of office, and which fee shall be paid monthly by the Department on receipt of statements from such officers; but where such licenses are issued by any other officers, no fee shall be allowed except as fixed by the Legislature in its biennium appropriation bill. All applications shall be made and licenses issued hereunder in the county where the applicant resides.

Section 8. Register of Operators and Chauffeurs:

(a) The Department shall issue to every person licensed as an operator an operator's license, and to every person licensed as a chauffeur a chauffeur's license as well as an operator's license. Every chauffeur, before operating a motor vehicle for hire, shall apply for and receive from the Department, and at all times while so operating a motor vehicle for hire shall display in plain sight upon the band of his cap, or under the lapel of his outer coat, a chauffeur's badge. All

persons licensed as chauffeurs shall be issued by the Department an operator's license at no additional cost other than fee now provided by law for chauffeur's license.

(b) Every such license shall bear thereon a distinguishing number assigned to the license and shall contain the name, age, residence, address and a brief description of the licensee for the purpose of identification, and also a space for the signature of the licensee.

(c) Every chauffeur's badge shall be of metal with a plainly readable distinguishing number assigned to the licensee stamped thereon.

Section 9. Duplicate License Certificate and Chauffeur's Badges:

In the event that an operator's or chauffeur's license or a chauffeur's badge issued under the provisions of this Act shall be lost or destroyed, the person to whom the same was issued may obtain a duplicate or substitute thereof upon furnishing proof satisfactory to the Department that such license or badge has been lost or destroyed, and upon payment of a fee of twenty-five (25) cents for each operator's or chauffeur's license, and a fee of One Dollar (\$1.00) for each chauffeur's badge.

Section 10. License to be Signed:

(a) Every person licensed as a chauffeur or operator shall write his usual signature with pen and ink in the space provided for that purpose on the license certificate issued to him immediately upon receipt of such certificate, and such license shall not be valid until the certificate is so signed.

(b) It shall be the duty of each licensee at all times when driving a motor vehicle to make proper showing that he has an operator's license by actual display of such license or by satisfactory identification on demand of any peace officer or agent of the Department. It shall be a defense to any charge under this subsection or subsection (a) of Section 5 that the person so charged produce in court an operator's or chauffeur's license theretofore issued to such person and valid at the time of his arrest.

Section 11. Expiration of Licenses, Fees therefor, and Disposition of Same:

(a) Every operator's license shall expire within three years from date of

issuance, and shall be renewed on or before April 1, 1939, and each three years thereafter, upon presentation of valid license previously issued under this Act.

(b) Every chauffeur's license issued hereunder shall expire one year from date of issuance, and shall be renewed annually upon application and payment of the fees required by law, and upon presentation of a valid chauffeur's license previously issued under this Act.

(c) The Department shall provide and furnish suitable forms and blanks for application, registration and license cards or blanks, and all other forms requisite for the purposes of this Act, and shall prepay all transportation charges on same to its designated agencies.

(d) No fee shall be charged or collected for the original issuance of an operator's license. The annual fee for a chauffeur's license shall be \$3.00.

(e) All fees required by this Act and collected by any officer or agent of the Department shall be remitted without deduction on Monday of each week with duplicate and triplicate copies of all licenses issued, to the Department at Austin, Texas, and all such fees so collected shall be deposited in the State Treasury in a fund to be known as the "Operator's and Chauffeur's License Fund" which shall be kept separate by the State Treasurer. Such officers or agencies shall furnish bond to be approved by the Public Safety Director of the Department, payable to the Governor of the State of Texas in such amount as said Director may require, conditioned upon remittances to the Department of all fees collected. All moneys in the Operator's and Chauffeur's License Fund, or as much thereof as may be necessary, is hereby appropriated for the purpose of defraying the expenses of administering this Act through the biennium ending August 31, 1937, including the employment of the necessary clerical and administrative help and defraying the necessary expenses incident to any judicial hearing relative to the suspension and/or revocation of licenses, and including the printing and transportation of all necessary forms, licenses and badges hereinbefore provided; and including the payment of the five (5) cent fee required under Section 9 hereof, and including the purchase through

bids taken by the Board of Control of all necessary furniture and fixtures and provided further that no salary shall be paid out of the funds hereby appropriated in excess of the salaries paid for like or similar services under the terms of the general departmental bill; and provided further that all disbursements hereunder shall be by warrant issued by the Comptroller upon vouchers drawn by the Chairman of the Department of Public Safety and approved by one other member of the Commission, and such vouchers shall be accompanied by itemized sworn statement of the expenditures for which they are issued.

(f) At the end of every fiscal year, the Department shall submit a comprehensive and complete report of the receipts and expenses of this Act to the Governor of the State of Texas.

(g) All moneys that have been collected and deposited in the State Treasury to the credit of the Highway Department received on account of the issuance of chauffeur's licenses for the year 1935 shall be transferred by the State Treasurer to the "Operator's and Chauffeur's License Fund" in the State Treasury, said fund being provided in Section 13, subsection (e) hereof, to help defray the initial expense of the administration of this Act.

Section 12. Accident Statistics and Reports:

(a) The Department shall prepare and shall supply to police and sheriffs' offices and other suitable agencies, forms for accident reports, and such reports shall be made within a reasonable time from the date of such accident by such officers or agencies to the Department at Austin, Texas, sufficiently detailing all the facts with reference to any highway accident, and the persons and vehicles involved.

(b) The Department shall receive accident reports required to be made by law and shall tabulate and analyze such reports and publish annually or at more frequent intervals, statistical information based thereon as to the number, cause and location of highway accidents; and the Department shall biennially report to the Governor and the Legislature the abstract of such reports for the preceding biennium, with its conclusions and findings and recommendations for decreasing highway accidents and increasing safety upon the highways of Texas.

(c) Every hospital superintendent and/or ambulance operator shall make a report to the Department with respect to any injury or death to any person found to have been the result of a motor vehicle accident, when the services of such hospital or ambulance operator are utilized.

(d) Any person hereinabove required to make any report who shall knowingly fail to do so on demand of the Department shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in Section 22 of this Act.

Section 13. Cancellation of License Because of Mental Incompetence:

It shall be unlawful for any person to act as an operator or chauffeur who is an habitual drunkard or is addicted to the use of narcotic drugs, or who has been adjudged insane or an idiot, imbecile, epileptic, or feeble-minded, and who has not been restored to competency by judicial decree or released from a hospital for the insane or feeble-minded upon a certificate of the superintendent that such person is competent, and any finding by any court of competent jurisdiction that any person holding an operator's license or chauffeur's license is either insane, feeble-minded, an habitual drunkard, an epileptic, an imbecile, idiot, or addicted to the use of narcotics, shall carry with it a revocation of such operator's and/or chauffeur's license, and it shall be the duty of the clerk of any court in which such findings are made, to certify same to the Department within ten (10) days.

Section 14. Age limit of Operators of School Buses and Common Carriers:

It shall be unlawful for any person who is under the age of twenty-one (21) years to drive a motor vehicle while in use as a school bus for the transportation of pupils to and from school or for any person who is under the age of eighteen (18) years to drive a motor vehicle while in use for hire as a public common carrier of persons or property.

Section 15. When Court to Report Convictions:

The clerk of every court and all justices of the peace having jurisdiction over offenses committed under any law of this State regulating the operation of motor vehicles on the highways shall forward to the Department at Austin, Texas, a record of the

conviction of any person in said Court for a violation of any of said laws, within twenty (20) days from the date of such conviction.

Section 16. Mandatory Suspension or Revocation of License:

(a) The license of any person shall be automatically suspended or revoked upon final conviction of any of the following offenses:

First: Negligent homicide resulting from the operation of a motor vehicle.

Second: Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drug.

Third: Any offense punishable as a felony under the motor vehicle laws of this State.

Fourth: Upon three convictions of violating any of the provisions of Article 801 of the Penal Code of Texas, or Section 10 of Chapter 42 of the General Laws of the Second Called Session of the Forty-first Legislature of Texas, committed within a period of twelve (12) consecutive months.

Fifth: A conviction of a driver of a motor vehicle involved in an accident or collision, upon a charge of failure to stop, render aid, and disclose his identity at the scene of said accident or collision.

Sixth: Conviction upon two separate charges of aggravated assault upon a person by means of a motor vehicle, as provided by law.

(b) The revocation or suspension above provided shall in the first instance be for a period of six months. In event any license shall be revoked or suspended under the provision of this Section for a second time, said second revocation or suspension shall be for a period of one additional year.

(c) The revocation or suspension of any license shall be automatically extended upon licensee being convicted of operating a motor vehicle while the license of such person is suspended or revoked; such extended period or revocation or suspension to be for a like period as the original revocation or suspension.

Section 17. Right of Appeal to Courts:

Any person denied a license by the Department shall have the right to file a petition within thirty (30) days thereafter for a hearing in the matter

in the county court at law in the county wherein such person shall reside, or if there be no county court at law therein, then in the county court of said county, and such court is hereby vested with jurisdiction and it shall be its duty to set the matter for hearing upon ten (10) days written notice to the Department, and thereupon to take testimony and examine into the facts of the case, and to determine whether the petitioner is entitled to the right to drive a motor vehicle on the highways of this State under the provisions of this Act.

Section 18. Surrender and Return of License and Badge:

Upon suspension or revocation of an operator's or chauffeur's license, the Department shall require that such license be surrendered to and retained by the Department, and the badge of any chauffeur whose license is suspended or revoked shall also be surrendered to the Department, provided at the end of a period of suspension such license and badge be returned to the licensee.

Section 19. Violation of License Provision:

It shall be unlawful for any person to commit any of the following acts:

First: To display or cause or permit to be displayed or to have in possession any operator's or chauffeur's license knowing the same to be fictitious or to have been cancelled, revoked, suspended or altered.

Second: To lend or to knowingly permit the use of, by one not entitled thereto, any operator's or chauffeur's license issued to the person so lending or permitting the use thereof.

Third: To display or to represent as one's own any operator's or chauffeur's license not issued to the person so displaying same.

Fourth: To fail or refuse to surrender to the Department on demand any operator's or chauffeur's license which has been suspended, cancelled or revoked as provided by law.

Fifth: To use a false or fictitious name or give a false or fictitious address in any application for an operator's or chauffeur's license, or any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application.

Section 20. Penalty for Violation of Act:

(a) It shall be a misdemeanor for any person to violate any of the provisions of this Act unless such violation is by this Act or other laws of this State declared to be a felony.

(b) In addition to any other penalties hereinbefore provided, and unless another penalty is in this Act or by the laws of this State provided, every person convicted of a misdemeanor for the violation of any provision of this Act shall be punished by a fine of not more than Two Hundred (\$200.00) Dollars.

Section 21. Penalty for Driving While License Suspended or Revoked:

In addition to any other penalties hereinbefore provided, any person convicted for driving a motor vehicle while his license is suspended or revoked shall be punished by imprisonment in the county jail for a period of not less than two (2) days, or not more than six (6) months, and there may be imposed in addition thereto a fine of not more than Five Hundred (\$500.00) Dollars.

Section 22. Repeal of Conflicting Laws. All laws or parts of laws in conflict herewith are hereby expressly repealed, and more particularly Article 6687 of Revised Civil Statutes of Texas.

Section 23. Constitutionality: If any part or parts of this Act shall be held to be unconstitutional such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional.

Section 24. Short Title. This Act may be cited as the Texas Driver's License Law.

Section 25. Emergency Clause: The fact that Texas now has no adequate law providing for the licensing of operators and chauffeurs and that such Act must be immediately passed in order that steps may be taken to put it in force and licenses be issued prior to April 1, 1936, create an emergency and an imperative public necessity requiring that the constitutional rule, providing that bills be read on three separate days, be suspended, and the same is hereby suspended, and this Act shall

be in full force and effect from and after its passage, and it is so enacted.

DUNAGAN,
ALSUP,
COOPER,

On the Part of the House.

POAGE,
REGAN,
MOORE,
SHIVERS,
NEAL,

One the Part of the Senate.

Mr. Butler of Brazos moved a call of the House for the purpose of maintaining a quorum until the Conference Committee Report on Senate Bill No. 15 is disposed of, and the call was duly seconded.

Question recurring on the motion for the call of the House, yeas and nays were demanded.

The roll of the House was called and the vote announced as follows:

Yeas 64, nays 63.

A verification of the vote was requested.

The roll of the "yeas" and "nays" was again called, and the verified vote resulted as follows:

Yeas—63

Aikin	Jones of Shelby
Alsup	Jones of Wise
Atchison	Latham
Bradbury	Leath
Broyles	Lemens
Burton	Leonard
Butler of Brazos	Lindsey
Cagle	Lucas
Calvert	Luker
Canon	Mauritz
Collins	McCalla
Cooper	McConnell
Craddock	Moore
Dunagan	Newton
England	Olsen
Fain	Padgett
Fisher	Palmer
Fox	Reader
Fuchs	Reed of Dallas
Gray	Roach of Angelina
Greathouse	Rogers
Hanna	Russell
Hardin	Sessions
Harris of Archer	Settle
Hodges	Smith
Holland	Spears
Hunt	Steward
Hyder	Stovall
James	Tennyson

Thornton
Tillery
Wood of Montague

Worley
Young

Nays—69

Adamson	Hill
Adkins	Hofheinz
Alexander	Hoskins
Ash	Huddleston
Beck	Hunter
Bergman	Jefferson
Bourne	Jones of Atascosa
Butler of Karnes	Jones of Falls
Caldwell	Keefe
Celaya	King
Clayton	Knetsch
Colquitt	Lanning
Colson	Lotief
Cowley	McKee
Crossley	McKinney
Daniel	Morris
Davis	Patterson
Davison of Fisher	Payne
Davisson	Pope
of Eastland	Quinn
Dickison	Reed of Bowie
Dunlap of Hays	Riddle
Dunlap of Kleberg	Roach of Hunt
Duvall	Roane
Dwyer	Roark
Farmer	Rutta
Ford	Shofner
Frazer	Stanfield
Gibson	Tarwater
Glass	Venable
Graves	Waggoner
Hankamer	Wells
Hartzog	Westfall
Head	Wood of Harrison
Herzik	Youngblood

Present—Not Voting

Harris of Dallas

Absent

Bradford	Morse
Good	Petsch
Howard	Roberts
Jackson	Scarborough
McFarland	Stinson
Moffett	Walker
Morrison	

Absent

Fitzwater	Nicholson
Lange	

The Chair announced that the motion for the call of the House was lost.

Question—Shall the Conference Committee Report on Senate Bill No. 15 be adopted?

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bills and resolutions:

H. B. No. 66, "An Act to provide for payment of the salaries of the ex-officio county superintendents from the County Available School Fund; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

H. B. No. 110, "An Act authorizing and empowering all cities and towns, including home rule cities, to build and purchase, to mortgage and encumber certain projects to-wit: parks and/or swimming pools, golf courses, golf course club houses, ball parks, fair grounds, exposition buildings airports, and the land upon which the same are situated, and to evidence the obligation therefor by the issuance of bonds, notes or warrants, etc., and declaring an emergency."

H. B. No. 122, "An Act amending House Bill No. 327, Chapter 350, of the General Laws of the State of Texas as passed by the Forty-fourth Legislature, 1935, Regular Session, by adding thereto a Section to be known as Section 6a, providing that a common school district in a county whose population, as shown by the last Federal Census, is between forty-three thousand and one (43,001) and forty-three thousand and one hundred (43,100) inhabitants, and which district has a current levy of fifty (50) cents on the one hundred dollars property valuation, and has voted a tax levy of seventy-five (75) cents on the one hundred dollar valuation, may receive aid for a one-teacher school for the year 1935-36; repealing all laws in conflict therewith, and declaring an emergency."

H. B. No. 124, "An Act to prohibit the selling, taking or possession for barter or sale of wild fox, or the pelt thereof in Newton and Jasper Counties; to prohibit the killing of wild fox in said counties; providing penalties, and declaring an emergency."

H. B. No. 130, "An Act providing a method for the exclusion of lands from fresh water supply districts in counties having a population of not more than 20,000 or not less than

3,000, according to the last preceding Federal Census, and embracing not less than 50,000 acres, which districts have no outstanding bonded indebtedness; providing for the alteration of the boundaries of such districts so as to exclude the lands; and declaring an emergency."

S. B. No. 28, "An Act to amend Chapter 3 of Title 42 of the Revised Civil Statutes of Texas of 1925 by adding thereto a new article to be known as Article 2033-B, providing for the service of citation or other civil process, and declaring an emergency."

S. B. No. 8, "An Act to amend Section 9, Senate Bill No. 19, Acts, First Called Session, Forty-fourth Legislature, and declaring an emergency."

S. B. No. 18, "An Act amending Chapter 5, Acts of the Second Called Session of the Forty-third Legislature, as amended by Chapter 23 of the Acts of the Regular Session of the Forty-fourth Legislature, and by Chapter 204, Acts of the Regular Session of the Forty-fourth Legislature, by making more specific the application of the Act to the building of libraries, gymnasias, athletic buildings and stadia; conferring definite power on the governing boards of the educational institutions named to fix fees and charges against students for the use of any and all buildings constructed under this law as amended, and declaring an emergency."

S. B. No. 19, "An Act ratifying, confirming and validating all acts of county boards of trustees in laying out or attempting to establish, combine, abolish or change any independent or common school district under the provisions of Chapter 339, Acts Regular Session, Forty-fourth Legislature, 1935, or under Chapter 151, Acts Regular Session, Forty-fourth Legislature, 1935, and declaring an emergency."

S. B. No. 23, "An Act validating an election held under the provisions of Chapter 339, Acts Regular Session, Forty-fourth Legislature, transferring certain lands from the Badgett Common School District No. 4 in Martin County, Texas, to Courtney Independent School District No. 5, Martin County, Texas, and declaring an emergency."

S. B. No. 27, "An Act making an appropriation out of the General Revenue Funds of the State of Texas for the Brazos River Conservation and Reclamation District, and declaring an emergency."

S. B. No. 30, "An Act authorizing cities having a population of more than 3,500 and not exceeding 4,000 inhabitants, and which are not served either by a natural gas or artificial gas distribution system to acquire by purchase or otherwise a system to make available and to distribute to their inhabitants who subscribe for the service, a gas for fuel and lighting purposes manufactured and compounded in the manner herein prescribed; and declaring an emergency."

S. B. No. 31, "An Act applying only to independent school districts in counties having a population of not less than thirty-two thousand five hundred (32,500) and not more than thirty-seven thousand five hundred (37,500), and declaring an emergency."

H. C. R. No. 21, Granting C. D. Scroggin et al, permission to sue the State.

H. C. R. No. 28, To suspend certain Joint Rules to consider House Bill No. 127.

S. C. R. No. 19, Relative to painting of President James K. Polk.

S. C. R. No. 25, Granting J. C. Trachta permission to sue the State.

RECESS

Mr. Head moved that the House recess to 8:00 o'clock p. m., today.

Mr. Patterson moved that the House recess to 7:30 o'clock p. m., today.

Question recurring on the motion by Mr. Head, it prevailed, and the House, accordingly, at 5:50 o'clock p. m., took recess to 8:00 o'clock p. m., today.

NIGHT SESSION

The House met at 8:00 o'clock p. m., and was called to order by Mr. Morse.

ADOPTION OF CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 15

The House resumed consideration of pending business, same being the Conference Committee Report on Senate Bill No. 15.

The Report having been submitted to the House on this afternoon.

Mr. Lucas moved a call of the House for the purpose of maintaining a quorum until 12:00 o'clock midnight, and the call was duly ordered.

On motion of Mr. Lucas, the Sergeant-at-Arms was instructed to bring in all absent members within the city who are not ill.

(Pending consideration of the conference committee report on Senate Bill No. 15, Mr. Steward occupied the Chair, temporarily.)

(Mr. Morse in the Chair.)

Mr. Dunagan moved that the Report be adopted.

Mr. Pope moved as a substitute for the motion by Mr. Dunagan, that the Report be not adopted, and that a new conference committee be appointed to adjust the differences between the House and Senate, on Senate Bill No. 15.

Mr. Padgett moved to table the motion by Mr. Pope.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—77

Adamson	Graves
Aikin	Gray
Alsup	Greathouse
Ash	Hanna
Atchison	Harris of Archer
Bradford	Hartzog
Burton	Hodges
Butler of Brazos	Hofheinz
Cagle	Holland
Calvert	Hoskins
Canon	Hunt
Celaya	Hyder
Clayton	Jackson
Collins	Jefferson
Colquitt	Jones of Falls
Cooper	Lemens
Cowley	Leonard
Davis	McCalla
Davisson	McFarland
of Eastland	McKee
Dickison	Moffett
Dunagan	Moore
Dunlap of Hays	Morris
Duvall	Morse
Dwyer	Newton
England	Padgett
Fisher	Patterson
Ford	Petsch
Fox	Quinn
Gibson	Reader

Reed of Dallas	Steward
Riddle	Stinson
Roach of Angelina	Stovall
Roach of Hunt	Tennyson
Sessions	Thornton
Settle	Tillery
Shofner	Waggoner
Smith	Wells
Spears	Youngblood

Nays—62

Mr. Speaker	Lanning
Adkins	Latham
Alexander	Leath
Beck	Lindsey
Bergman	Lotief
Bourne	Lucas
Bradbury	Luker
Broyles	Mauritz
Butler of Karnes	McConnell
Caldwell	McKinney
Colson	Morrison
Craddock	Olsen
Crossley	Palmer
Daniel	Pope
Davison of Fisher	Reed of Bowie
Fain	Roane
Farmer	Roark
Frazer	Roberts
Glass	Rogers
Good	Russell
Hardin	Rutta
Head	Scarborough
Herzik	Stanfield
Huddleston	Tarwater
Hunter	Venable
Jones of Atascosa	Walker
Jones of Shelby	Westfall
Jones of Wise	Wood of Harrison
Keefe	Wood of Montague
King	Worley
Knetsch	Young

Absent

Dunlap of Kleberg	Hill
Fuchs	Howard
Hankamer	James
Harris of Dallas	Payne

Absent—Excused

Fitzwater	Nicholson
Lange	

Question then recurring on the motion by Mr. Dunagan that the Conference Committee Report on S. B. No. 15 be adopted, yeas and nays were demanded.

The Report was adopted by the following vote:

Yeas—84

Adamson	Alsup
Aikin	Ash

Atchison	Hyder
Bradford	Jefferson
Burton	Jones of Falls
Butler of Brazos	Knetsch
Cagle	Lemens
Calvert	Leonard
Canon	Lindsey
Celaya	McCalla
Clayton	McConnell
Collins	McFarland
Colquitt	McKee
Colson	Moffett
Cooper	Moore
Cowley	Morris
Davis	Morrison
Davisson	Morse
of Eastland	Newton
Dickison	Padgett
Dunagan	Patterson
Dunlap of Hays	Petsch
Dunlap of Kleberg	Quinn
Duvall	Reader
Dwyer	Reed of Dallas
England	Riddle
Farmer	Roach of Angelina
Fisher	Roach of Hunt
Ford	Sessions
Fox	Settle
Gibson	Shofner
Graves	Smith
Gray	Spears
Greathouse	Steward
Hankamer	Stinson
Hanna	Stovall
Harris of Archer	Tennyson
Harris of Dallas	Thornton
Hartzog	Tillery
Hodges	Waggoner
Hofheinz	Wells
Holland	Youngblood
Hoskins	

Nays—57

Mr. Speaker	Huddleston
Adkins	Hunt
Alexander	Hunter
Beck	Jackson
Bergman	Jones of Atascosa
Bourne	Jones of Shelby
Bradbury	Jones of Wise
Broyles	Keefe
Butler of Karnes	King
Caldwell	Lanning
Craddock	Latham
Crossley	Lotief
Daniel	Lucas
Davison of Fisher	Luker
Fain	Mauritz
Frazer	McKinney
Glass	Olsen
Good	Palmer
Hardin	Pope
Head	Reed of Bowie
Herzik	Roane

Roark	Venable
Roberts	Walker
Rogers	Westfall
Russell	Wood of Harrison
Rutta	Wood of Montague
Scarborough	Worley
Stanfield	Young
Tarwater	

Absent

Fuchs	James
Hill	Leath
Howard	Payne

Absent—Excused

Fitzwater	Nicholson
Lange	

REASON FOR VOTE

I voted against adoption of the Conference Committee Report on Senate Bill No. 15, (Driver's License Law), because in my opinion it was the poorest drawn bill ever written by a conference committee.

Although the bill does not require the payment of a fee for the license it requires the signature of every person obtaining such license, thus causing every person obtaining such license to make a trip to the assessor and collectors office.

If the fear of a person taking the life of his fellow man or losing his own life will not cause a person to drive carefully and safely upon the highways of this State, then I cannot see where the mere issuance of a license will cause such people to drive more carefully.

It was my intention to vote for a Driver's License Law, had the conference committee brought in a workable bill and that would really curb reckless driving upon the highways.

If the courts would properly enforce the laws now on our statute books, it would be sufficient to curb the reckless driving on our highways.

WOOD of Harrison.

Mr. Thornton moved to reconsider the vote by which the Conference Committee Report on S. B. No. 15 was adopted, and to table the motion to reconsider.

The motion to table prevailed by the following vote:

Yeas—82

Aikin	Bradford
Alsup	Burton
Ash	Butler of Brazos
Atchison	Cagle

Calvert	Jones of Falls
Canon	King
Clayton	Leath
Collins	Lemens
Colquitt	Lindsey
Colson	McCalla
Cooper	McFarland
Cowley	Moffett
Davis	Moore
Davison of Fisher	Morris
Davisson	Morrison
of Eastland	Morse
Dickison	Newton
Dunagan	Olsen
Dunlap of Hays	Padgett
Dunlap of Kleberg	Patterson
Dwyer	Petsch
England	Quinn
Farmer	Reader
Fisher	Reed of Dallas
Ford	Riddle
Fox	Roach of Angelina
Gibson	Roach of Hunt
Graves	Sessions
Gray	Settle
Greathouse	Shofner
Hankamer	Smith
Hanna	Spears
Harris of Archer	Steward
Harris of Dallas	Stinson
Hartzog	Stovall
Hodges	Tennyson
Hofheinz	Thornton
Holland	Tillery
Hunt	Waggoner
Hunter	Worley
Hyder	Youngblood
Jefferson	

Nays—50

Mr. Speaker	Knetsch
Adkins	Lanning
Beck	Latham
Bourne	Lotief
Bradbury	Lucas
Broyles	Luker
Butler of Karnes	Mauritz
Caldwell	McKee
Craddock	McKinney
Crossley	Palmer
Daniel	Pope
Fain	Reed of Bowie
Frazer	Roane
Glass	Roark
Good	Roberts
Hardin	Rogers
Head	Russell
Herzik	Rutta
Huddleston	Scarborough
Jones of Atascosa	Stanfield
Jones of Shelby	Tarwater
Jones of Wise	Venable
Keefe	Walker

Westfall Wood of Montague
Wood of Harrison Young

Absent

Adamson Howard
Alexander Jackson
Bergman James
Celaya Leonard
Duvall McConnell
Fuchs Payne
Hill Wells
Hoskins

Absent—Excused

Fitzwater Nicholson
Lange

**PROVIDING FOR CUSTODIAN OF
THE HOUSE**

Mr. Leonard offered the following resolution:

Whereas, The Hall of the House of Representatives should be kept open from 8 o'clock a. m., until 5 o'clock p. m., each week day, and from 10 o'clock a. m., to 5 o'clock p. m., each Sunday, in order that visitors may have the opportunity of visiting the Hall when in the City of Austin; and

Whereas, The furniture and property of the Hall of the House of Representatives and the various committee rooms should be under protection during these hours, and kept clean and in order; and

Whereas, No such employes are provided as part of the regular force of the employes of the Capitol; therefore, be it

Resolved by the House of Representatives, That the Speaker of the House be authorized to select a responsible custodian to look after the Hall of the House of Representatives after the adjournment of the Second Called Session of the Forty-fourth Legislature and the convening of the next session, which custodian shall be under the supervision of the Board of Control, and shall receive for his services One Hundred and Five (\$105.00) Dollars per month, to be paid out of the mileage and per diem fund of the House for the Second Called Session, a warrant to be issued upon the approval of the chairman of the Board of Control, and to be paid the first day of each month, and be it further

Resolved, That the Speaker of the House be authorized to designate a porter to take care of the Hall of the House of Representatives and adjoining

rooms used by the House of Representatives and the Speaker of the House, and said porter shall work under the direction of the custodian of the House, and shall receive as compensation the sum of Three (\$3) Dollars per day, to be paid out of the mileage and per diem appropriation fund of the Second Called Session of the Forty-fourth Legislature, a warrant to be issued upon approval of the chairman of the Board of Control, and to be paid the first day of each month.

The resolution was read second time, and was adopted.

**PROVIDING FOR POST SESSION
WORK**

Mr. Leonard offered the following resolution:

Whereas, It is necessary that certain officers and employes perform certain duties in order to complete the work of their departments; now, therefore, be it

Resolved, That the following officers and employes be retained after the adjournment of this session, not to exceed the number of days herein specified, exclusive of Sundays:

The Parliamentarian, for three (3) days.

The Chief Clerk, ten (10) days, for the purpose of collecting all records, reports, and papers in the hands of various clerks, and arranging all bills, resolutions, petitions and delivering the same, after proper classification, to the Secretary of State, and to complete the various other duties imposed upon her by resolution and by the Rules of the House; and three (3) assistants, six (6) days each.

The Calendar Clerk, four (4) days, and two assistants, two (2) days each, for the purpose of completing their records and delivering all records, bills and resolutions in their possession to the Chief Clerk.

The Engrossing and Enrolling Clerks, two (2) days each, for the purpose of filing with the Chief Clerk all bills and resolutions in their departments; two (2) assistants each, for two (2) days each.

The Clerk of the Contingent Expense Committee, fifteen (15) days; the bookkeeper and stock clerk to the Contingent Expense Committee, five (5) days each, for the purpose of invoicing, checking and posting up accounts, mailing out vouchers and closing up the affairs of the Committee on

Contingent Expenses and the expenses of the Chairman of the Committee on Contingent Expenses shall be allowed for fifteen (15) days; and the Chairman of the Committee on Contingent Expenses shall be allowed traveling expenses and other necessary expenses, when the duties of his office require his presence in the City of Austin, in the interim between the Second Called Session of the Forty-fourth Legislature and the next Called or Regular Session of the Legislature.

The mailing clerk and assistant mailing clerk, five (5) days each, for the purpose of mailing out House Journals not received from the printer until after sine die adjournment.

The voting machine operator, three (3) days, for the purpose of cleaning up the voting machine.

The Sergeant-at-Arms shall receive six (6) days; a secretary to the Sergeant-at-Arms two (2) days; two pages, shall receive one (1) day each, and six (6) porters shall receive six (6) days each to assist in the proper closing and cleaning of the Hall of the House of Representatives.

The Clerk of the Committee on Claims and Accounts shall receive two (2) days to properly close the affairs of the Committee on Claims and Accounts.

The Chief Clerk of the Committee on Appropriations, shall receive two (2) days, to compile and recapitulate appropriations totals for printing in Journal of last day.

The chief of stenographers and one page shall receive one (1) day each.

That two hundred and fifty copies of the House Journal of the Second Called Session of the Forty-fourth Legislature, when completed, shall be printed and shall be bound in buckram, and that one volume, when thus bound, shall be forwarded by the Journal Clerk of the House to each Member of the House of Representatives, to each elective officer of the House, and to each Senator, and the remaining shall be turned over to the Secretary of State.

The printing of such House Journals in permanent form shall be done in accordance with pre-existing laws and with the provisions of this resolution, under the supervision of the Journal Clerk of the House.

It is further provided that it shall be the duty of the Journal Clerk of the House of Representatives not to

receive or receipt for said House Journals until correctly published as required herein and by pre-existing law; provided, that the Journal Clerk shall be empowered to leave out of the Permanent Journal all bills which have been printed in the daily Journal.

When said Journals have been published, and the account approved by the Board of Control, the same shall be paid out of the Contingent Expense Fund of the Second Called Session of the Forty-fourth Legislature that is available; providing, that the Chairman of the Committee on Contingent Expenses shall not issue voucher for said amount until the Journal Clerk has certified to him that the Journals have been published and delivered in accordance with the provisions of this resolution.

The Journal Clerk and her assistant shall be retained for not more than fifty (50) days each, exclusive of Sundays, after sine die adjournment, for the purpose of correcting, and indexing, and the supervision of the publication of Journals of the House of Representatives of the Second Called Session of the Forty-fourth Legislature and shall receive the same salary as received during the Session, payable out of the Contingent Expense Fund, on bills in duplicate, with the usual affidavit attached.

The Speaker of the House is hereby empowered to employ such additional help and to provide such additional services as he deems necessary in the interim between November 14, 1935, and the beginning of the next Called or Regular Session of the Legislature, and the expense of such employment or services shall be paid out of the Contingent Expense Fund of the Second Called Session of the Forty-fourth Legislature in the same manner as is herein provided for the payment of other expenses incurred under this resolution.

That each employe so retained by this resolution, or by the Speaker, shall receive the same amount of salary as received for like work during this Session, to be paid out of any sum appropriated for mileage and per diem of the Members and officers and employes of the Second Called Session of the Forty-fourth Legislature, the amount to be paid by warrants to be signed by the Speaker of

the House and the Chief Clerk of the House.

The resolution was read second time.

(Speaker in the Chair.)

Question recurring on the resolution, it was adopted.

CONCERNING CERTAIN RECOMMENDATIONS TO EDUCATIONAL AUTHORITIES OF TEXAS

The Speaker laid before the House, for consideration at this time, the following resolution:

S. C. R. No. 24, Concerning certain recommendations to educational authorities of Texas.

Whereas, In 1936, Texas will celebrate her Centennial; and

Whereas, Texas has the distinction of being the only State of the Union that has been an independent nation; and

Whereas, Her history is therefore unique; and

Whereas, The pupils of the public schools of Texas receive little instruction in that history until reaching Junior High School; and

Whereas, It would seem fitting and appropriate that the younger pupils have an opportunity to become familiar with the glorious and romantic history of their State; now, therefore, be it

Resolved by the Senate of Texas, the House concurring, That it be recommended to the education authorities of the State that a suitable program that would present the outstanding facts of Texas history to children in the lower grades be worked out and put into effect immediately.

The resolution was read second time, and was adopted.

TO PROVIDE FOR CERTAIN CAPITOL EMPLOYEES

Mr. Patterson offered the following resolution:

H. C. R. No. 34, To provide for certain Capitol employees.

Whereas, The year 1936 is the Centennial year of the State of Texas, and the great Centennial Exposition to be held in this State contemplates and expects many visitors not only to this Exposition City but also to the Capitol City, as well as to the Capitol building, which is the sixth larg-

est building in the world; now, therefore, be it

Resolved, That the House of Representatives, the Senate concurring, hereby respectfully requests the State Board of Control to employ six guides to be uniformed, who shall be on duty at reasonable hours in said building for the purpose of showing the expected visitors through and over the Capitol building of this State, as well as any other duties that the Board of Control shall direct them to perform.

PATTERSON,
CELAYA,

The resolution was read second time.

Mr. Greathouse raised a point of order on further consideration of the resolution by Mr. Patterson, on the ground that the time allotted for the consideration of resolutions has expired.

The Speaker sustained the point of order.

COMMITTEE TO MAKE SURVEY OF PUBLIC SAFETY COMMISSION

In accordance with a resolution adopted by the House on this morning, providing for a committee to make certain survey of the Texas Public Safety Commission, the Speaker announced the appointment of the following committee:

Messrs. Hanna, Atchison and Ford.

COMMITTEE TO INVESTIGATE CERTAIN WAGE SCALES

In accordance with a resolution heretofore adopted, providing for a committee to investigate certain wage scales of the State Highway Department, the Speaker announced the appointment of the following committee:

Messrs. McKee, Youngblood, Roberts, Lanning and Mauritz.

COMMITTEE TO INVESTIGATE ARRESTS OF CERTAIN MOTOR VEHICLE OPERATORS

In accordance with a resolution heretofore adopted, providing for a committee to investigate arrests of certain motor vehicle operators, the Speaker announced the appointment of the following committee: Messrs. Hoskins, Dunagan, Colson, Thornton and Daniel.

MOTION TO INSTRUCT CONFERENCE COMMITTEE ON HOUSE BILL NO. 46

Mr. Knetsch submitted the following motion:

Whereas, The Conference Committee on House Bill No. 46, has been appointed and under the rules may not now be instructed; and

Whereas, Under instructions given said Conference Committee it now appears practically certain that unless said Committee is given some latitude from the restrictions placed on them under instructions heretofore given, no tax bill of any kind will be passed; and

Whereas, It is imperative that additional revenue be raised to meet the payment of old age pensions, therefore, we move

That said Conference Committee be informed that this House will consider favorably a bill that will exempt all foodstuffs, all sales under fifty cents, all medicines and drugs, all wearing apparel not exceeding \$10.00 in value, all shoes and boots not exceeding \$5.00 and all implements of husbandry not exceeding \$25.00 in value, and that such bill further carry with it omnibus features substantially as were contained in House Bill No. 46, when it passed the House.

**KNETSCH,
DUVALL.**

Mr. Aikin raised a point of order on further consideration of the motion by Mr. Knetsch, on the ground that the motion comes too late, as the Conference Committee has already been appointed, and that the House has heretofore by a motion instructed the Conference Committee, which motion was reconsidered and tabled.

The Speaker sustained the point of order.

IN COMMITTEE OF THE WHOLE HOUSE

(Mr. Spears in the Chair.)

At 9:40 o'clock p. m., Mr. Hyder moved that the House of Representatives resolve itself into a Committee of the Whole House for the purpose of considering matters relative to certain charges against Hon. J. E. McDonald.

The motion prevailed.

The House, accordingly, at 9:40 o'clock p. m., resolved itself into a Committee of the Whole House.

IN THE HOUSE
(Speaker in the Chair)

At 10:00 o'clock p. m., Mr. Spears, chairman of the Committee of the Whole House, reported to the House that the Committee desired to rise and report progress and asked leave of the House to sit again at 9:30 o'clock a. m., Friday, November 15.

The following proceedings were had in the Committee of the Whole House:

Hon. Coke R. Stevenson appointed Hon. J. Franklin Spears as chairman of the Committee of the Whole House.

(Mr. Spears was called to the Chair.)

At 10:00 o'clock p. m., Mr. Hyder moved that the Committee rise and report progress and ask leave of the House to sit again at 9:30 o'clock a. m., next Monday.

Mr. Reed of Bowie moved that the Committee rise and report progress and ask leave of the House to sit again at 9:30 o'clock a. m., tomorrow.

Question recurring on the motion by Mr. Reed of Bowie, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—72

Adamson	Jackson
Aikin	Jones of Falls
Alexander	Jones of Wise
Ash	Keefe
Beck	Knetsch
Bradford	Lanning
Broyles	Latham
Burton	Leath
Butler of Brazos	Lemens
Cagle	Lucas
Calvert	Luker
Colquitt	McConnell
Davis	McFarland
Dwyer	McKee
Fain	McKinney
Farmer	Moffett
Fisher	Morris
Ford	Morrison
Frazer	Newton
Gibson	Olsen
Glass	Reader
Harris of Archer	Reed of Bowie
Hartzog	Roach of Hunt
Head	Roane
Herzik	Roark
Hodges	Roberts
Hofheinz	Rogers
Holland	Russell
Huddleston	Shofner

Smith	Waggoner
Stinson	Walker
Stovall	Wells
Tennyson	Wood of Harrison
Thornton	Wood of Montague
Tillery	Worley
Venable	Youngblood

Nays—56

Adkins	Hunt
Alsup	Hyder
Bergman	James
Bourne	Jones of Atascosa
Bradbury	Jones of Shelby
Butler of Karnes	Leonard
Caldwell	Lotief
Canon	McCalla
Clayton	Moore
Collins	Morse
Colson	Padgett
Cooper	Palmer
Crossley	Patterson
Daniel	Petsch
Davison of Fisher	Pope
Dickison	Quinn
Dunagan	Reed of Dallas
Dunlap of Hays	Riddle
Dunlap of Kleberg	Roach of Angelina
Fox	Rutta
Good	Scarborough
Graves	Sessions
Gray	Settle
Greathouse	Stanfield
Hankamer	Steward
Hardin	Tarwater
Harris of Dallas	Westfall
Hill	Young

Absent

Atchison	Hoskins
Celaya	Howard
Cowley	Hunter
Craddock	Jefferson
Davisson	King
of Eastland	Lindsey
Duvall	Mauritz
England	Payne
Fuchs	Spears
Hanna	

Absent—Excused

Fitzwater	Nicholson
Lange	

TO GRANT REQUEST OF THE
COMMITTEE OF THE WHOLE
HOUSE

Mr. Reed of Bowie moved that the House of Representatives grant the request of the Committee of the Whole House to rise and report progress and sit again at 9:30 o'clock a. m., Friday, November 15.

Mr. Leonard moved, as a substitute motion, that the House grant the Committee of the Whole House permission to sit, in recess session, at 9:30 o'clock a. m., next Monday, November 18, 1935.

Question recurring on the motion by Mr. Leonard, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—81

Adamson	Keefe
Alexander	Lanning
Alsup	Latham
Bourne	Lemens
Bradbury	Leonard
Caldwell	Mauritz
Canon	McCalla
Clayton	McConnell
Colson	McFarland
Cooper	Moffett
Cowley	Moore
Crossley	Morris
Daniel	Morse
Davison of Fisher	Newton
Dickison	Olsen
Dunagan	Padgett
Dunlap of Hays	Palmer
Dunlap of Kleberg	Patterson
Duvall	Petsch
England	Quinn
Fox	Reader
Good	Reed of Dallas
Graves	Riddle
Gray	Roach of Angelina
Hankamer	Roach of Hunt
Hanna	Roberts
Hardin	Rogers
Harris of Dallas	Rutta
Hartzog	Scarborough
Head	Sessions
Hill	Settle
Hodges	Spears
Holland	Stanfield
Hoskins	Steward
Hunt	Tarwater
Hunter	Thornton
Hyder	Waggoner
Jackson	Wells
James	Wood of Montague
Jones of Atascosa	Young
Jones of Shelby	

Nays—58

Adkins	Broyles
Aikin	Burton
Ash	Butler of Brazos
Atchison	Butler of Karnes
Beck	Cagle
Bergman	Celaya
Bradford	Collins

Colquitt	Lindsey
Davis	Lotief
Davisson	Lucas
of Eastland	Luker
Dwyer	McKee
Fain	McKinney
Farmer	Morrison
Fisher	Pope
Ford	Reed of Bowie
Frazer	Roane
Gibson	Roark
Glass	Russell
Greathouse	Smith
Harris of Archer	Stinson
Herzik	Stovall
Hofheinz	Tennyson
Huddleston	Tillery
Jefferson	Venable
Jones of Falls	Westfall
Jones of Wise	Wood of Harrison
King	Worley
Knetsch	Youngblood
Leath	

Absent

Calvert	Payne
Craddock	Shofner
Fuchs	Walker
Howard	

Absent—Excused

Fitzwater	Nicholson
Lange	

The motion as substituted prevailed.

At 10:20 o'clock p. m., Mr. Spears moved that the House again resolve itself into a Committee of the Whole House for the purpose of considering the above motion by Mr. Leonard.

The motion prevailed.

IN COMMITTEE OF THE WHOLE HOUSE

(Mr. Spears in the Chair.)

The House, in accordance with the provisions of the motion by Mr. Spears, at 10:20 o'clock p. m., resolved itself into a Committee of the Whole House.

IN THE HOUSE

(Mr. Stevenson in the Chair.)

At 10:25 o'clock p. m., Mr. Spears, chairman of the Committee of the Whole House, reported to the House that the Committee desired to rise and report progress and ask leave of the House to sit in recess session at 9:30 o'clock a. m., next Monday, and reported the following proceedings of the Committee of the Whole House:

Mr. Leonard moved that the Committee rise and report progress and

asked leave of the House to sit in recess session at 9:30 o'clock a. m., next Monday.

The motion of Mr. Leonard prevailed.

REQUEST OF THE COMMITTEE OF THE WHOLE HOUSE GRANTED

On motion of Mr. Leonard, the House granted the request of the Committee of the Whole House to sit in recess session at 9:30 o'clock a. m., next Monday.

REPORT OF THE COMMITTEE TO INVESTIGATE DAIRY INDUSTRY

The following report was ordered printed in the Journal:

Austin, Texas,

Hon. Coke Stevenson, Speaker of the House of Representatives.

Mr. Speaker: We, your Committee, appointed by you, by virtue of House Simple Resolutions Nos. 105 and 140, Regular Session, Forty-fourth Legislature, for the purpose of investigating the charges of unfair practices within the Dairy Industry of this State, have completed our labors and beg leave to make the report attached hereto.

Introduction

Pursuant to House Simple Resolutions Nos. 105 and 140, authorizing the appointment by the Speaker of the House of Representatives five members therefrom, for the purposes of investigating "the charges of unfair practices within the dairy industry of this State and the causes of the decline of price of milk paid to the producers," the committee at its first meeting elected the following officers: Chairman, Traylor Russell, Representative of Titus and Morris Counties; Vice-Chairman, Ross Hardin, Representative of Limestone County; Secretary, Herman Jones, Representative of Wise County. The remaining members of the committee of five are John W. Fain, Representative of Parker County and Verner M. Butler, Representative of Karnes and Wilson Counties.

For the purpose of conducting the investigation, the committee was allowed expenditures not to exceed Five Hundred (\$500.00) Dollars. It is evident that because of the financial limitation the work of the committee

was necessarily limited to a rather general examination into the industry and prohibited the development of details in any one field.

Milk Purchasing by Use

The feature of the whole milk industry, which apparently presents the most difficult problem in achieving an equitable control in milk marketing, is to be found in the determination of the price which can be paid by the purchaser to the producer assuring a reasonable profit to both for milk which is necessarily put to many varying uses by the distributor. It is self-evident that there are logical reasons to support the determination of the price to be paid for whole milk by the determination of the use to which such milk is to be put. No one can question that the distributor is able to pay and should pay a higher price for that milk which is sold to the consumer in bottles than he can pay for the same grade of milk when it is processed into products which, when marketed by such processor, bring to him a smaller return than that milk which is sold in bottles.

Because of that fact the general scheme in marketing of whole milk in this State is for the distributor to pay what is called a base price for that milk which is sold in bottles and to pay a much lower price to the producer for that milk which is processed. It is herein that the producer feels that he is most at the mercy of the purchaser of his milk and entirely helpless in determining if the proper use classification is being made by such purchaser. At the time this investigation was made the purchasers of milk in the Fort Worth and Dallas milk sheds were paying to the producers the base price for about 52 per cent of their milk and paying the much lower surplus price to the producer for 48 per cent of his milk. It is plain from the above that a very effective price reduction may be made by the purchaser of milk by simply increasing the percentage of surplus milk and decreasing the percentage of base milk bought from the producer. It is believed by the producer that much of the surplus is not an actual surplus but is entirely fictitious, and that much of the milk purchased by the distributor and paid for as surplus milk is sold by such

distributors in bottles along side that milk purchased as base milk.

It appears to the committee that in view of the importance of this use classification, regardless of whether such plan has been abused by the purchaser in the past, the producer of such milk is entitled to more protection than he is now receiving in order that he might be assured that this all important classification is not used as a means of price deflation. It is to be noted further in this regard that no purchaser of milk will permit the producer to sell to such purchaser that portion of his milk which is classified as base milk and retain for his own use that which is classified as surplus milk. If the producer wishes to sell to such purchaser he must accept the prices paid and the classifications made and sell all his milk subject to such prices and classifications.

The producer of milk at the time he markets his milk has absolutely no knowledge what portion of that milk will be classified as base or surplus, not until he receives his milk check on the following week is he informed by the purchaser what per cent is paid for as base or surplus. Notwithstanding the representations by the purchasers that 50 per cent of the milk purchased by them was surplus milk, these purchasers apparently are constantly seeking new producer customers. It is believed by the committee that the milk industry will continue to remain in its present condition, characterized by constant warfare between producer and distributor promoted between these two elements of the industry, unless and until the producer is given some assurance by means of an independent agency that the use classification is fair and equitable. The producer is not only dissatisfied with the present condition because of possible financial loss resulting from abuse of the use classification, but is also dissatisfied in principle with a system which proposes a bargain and in which he is completely unrepresented and unprotected. As one producer witness testified, "It is the slavery feeling that hurts worse."

Weights and Tests

With the exception of abuses which have grown out of the "usage" system of milk purchasing the greatest dissatisfaction to be found among the

producers arises from the present system of weighing and testing the milk which is marketed by the producers. Here again, as is characteristic of all dealings between the producer and distributor, is presented a business bargain in which one party is completely voiceless and the other controls completely the terms of the bargain. The producer of milk under the present circumstances delivers his milk to the purchaser and at the time of such delivery has no idea of the butter fat percentage of that milk, the determination of which is entirely within the discretion of the purchaser thereof. The producers of milk are quite unanimous in the belief that they have been dealt with unfairly in the matters of weights and tests and it is believed by the committee that the desired co-operation between producer and distributor will never be attained so long as the important factors of weights and tests continue to be determined in the one-sided manner prevailing at the present time. Here again, it may be seen that the price of milk to the producer which is determined by the butter fat percentage thereof may be raised or lowered as effectively by the manipulation of such tests as by the more direct manipulation of the price. At the present time, there is a theoretical check upon the purchasers by means of State Inspectors. However, these inspectors are so few that it can be said justifiably that there is no real and adequate supervision of the purchaser in the matter of tests and weights.

The Houston Market

It is believed that the Houston Market presents the largest controlled market to be found in this State at the present time. Although the committee did not hold hearings within the Harris County Milk Shed, witnesses selling on the Houston Market were heard by the committee. The Port Arthur producers and distributors are operating under an agreement which at the present time is apparently quite satisfactory.

The control of the market in Harris County is had by virtue of a well organized producers organization. Prior to the formation of this organization, the difficulties that existed in the Houston Market were not dissimilar to those existing at the present time in the larger milk markets in Texas.

The organization was brought about because of marketing conditions which the producers in that market thought unfair since the producers were given almost no voice in the fixing of such conditions. Under the present arrangement the producers cooperative receives whole milk from the producers and all such milk sold to the distributors is sold through this cooperative. Members of the cooperative are allowed to sell, and receive therefor the base price, a percentage of the producers' production through the three winter months. This percentage varies according to the market demand for the milk. The base-surplus problem has been solved in this milk shed since the only whole milk, which is sold, is sold for the purpose of distribution in bottles and the producers through the cooperative sell no milk for the usual surplus purposes.

The producer organization provides inspectors of weights and tests who are on duty at all times when milk is received at the various receiving stations, and check their weights and grades with those of the employee of the receiving company. Likewise the organization provides inspectors to assure the producers that all milk, cream or other of his products that are bought for surplus purposes, actually are used for those purposes by the receiving company and that in no case is any such product sold in bottles to the consumer. It is to be noted that following the organization, the percentage of base milk has increased substantially.

The organization in this market has apparently benefited the producers substantially and is most successful of all such attempts that have been made on the part of the producer within this State.

From the investigation of the committee it is believed that the producer in the Houston Milk Shed is operating under the most favorable conditions to be found in this State and this as a result of the above described organization. From this it might be assumed that the producers problems can be solved by organization without the necessity of governmental assistance; however, in spite of the fact that the producers in Harris County are better satisfied than elsewhere, the producers from that section nevertheless advocate some system of market control by the State.

The history of the organization in Harris County presents a gruesome picture of constant gorilla warfare between the producers and the distributors. The organization was finally accomplished because of able leadership, not generally found among producers, and this only, after desperate efforts on the part of distributors by means of threats and intimidations against those producers participating in the organization to defeat such organization. These efforts on the part of the distributors to prevent such organizations have proved successful elsewhere and such attempted organizations have proved unsuccessful apparently without exceptions. The organization in the Houston Milk Shed is composed of producers concentrated in a small area, while in other urban areas the producers are spread over many counties, representing an area of hundreds of square miles. From the point of view of the consumer who demands an assured supply at the lowest price consistent with reasonable profits to all necessary elements in the industry, a system of control accomplished only by the methods above described is not satisfactory. It is believed by the committee that the problems of the industry cannot be solved by organizations of the producers, the only result of which is not to eliminate the constant fighting and bargaining between producers and distributors, but only to continue the same by presenting for the producers a stronger and more united front, instead of the ineffective individual bargaining to be found where no organization exists.

Anti-Trust Violations

Although the committee, by virtue of the resolution by which it was created, was charged with the duty of investigating agreements in restraint of trade by the milk distributors of this State and all of such other anti-trust violations that might be found in the milk industry, because of a limited expense appropriation, a satisfactory investigation of the books and business activities of the distributing companies was absolutely impossible. It was thought by the committee that better service could be rendered to the milk industry by investigating marketing conditions looking toward their reformation in order that unfair practices might be eliminated.

However, from the committee's investigation of such conditions it is believed that there is no real competition existing between the buyers of milk in their effort to secure producers. This is evidenced by the fact that producers testified that when two companies were purchasing milk within the same territory, one of such companies would not accept a producer who had previously been selling to the other company unless and until the producer had received a written release from the company to which he had previously sold. This is true, notwithstanding the fact that the producer is required to pay, by deduction from the compensation for his milk, all cost of hauling.

In regard to price manipulations by purchasers of cream and whole milk, the committee has little doubt but that many cases may be found in which such purchasers have increased prices paid to the producers for the purpose of eliminating from the purchasing field independent purchasers; and immediately following such elimination, the price promptly falls to the low level which exists generally in the industry. This price manipulation to eliminate competition is subject to the same objections that are leveled against all such practices found in many industries which can have but one result, and that to promote monopoly.

Furthermore, upon only a casual investigation of prices paid to the producers of milk, one cannot fail to be impressed with the apparent harmony with which all buyers of milk raise and lower prices simultaneously.

Another agreement between purchasers of milk produce which presents an agreement between such purchasers against which many objections and criticisms have been directed is to be found in the cream grading program elsewhere described in this report. However, it is to be noted that this agreement between the cream buyers is to be distinguished from other purchaser agreements in that the cream buyers agreement had the apparent sanction and approval of the Department of Agriculture of the State of Texas. For a more complete analysis of this program see elsewhere in this report.

Cream Grading Program

In April, 1934, the creameries and other large purchasers of cream at a

meeting in Austin, Texas, decided to enter into an agreement among themselves, together with the Department of Agriculture, to purchase all cream based upon a grade or grades to be promulgated by the Commissioner of Agriculture. The contract agreed upon recited that recent investigations by the Department of Agriculture revealed the fact that an emergency faced the manufacturers of Texas butter; that since no regulation existed in the State governing the purchase of cream for manufacturing purposes on grade or quality bases, Texas butter was being discriminated against in the out-of-State markets; and that it was necessary to adopt a cream grading system to improve the quality of cream purchased in order that Texas butter would not be so discriminated against. In the pursuance of this contract an Advisory Board was created to be composed of one member appointed by the Agricultural and Mechanical College, another to be appointed by the Texas Technological College, and five other members to be representatives of the butter manufacturers to be selected by the industry. This Board was to recommend any necessary change in the program and was to concur in the selection by the Commissioner of Agriculture of employees necessary to carry out the program. The Board had authority to make assessments against the members in the proportion to the volume of butter produced to take care of the expenses incurred, and all funds collected and disbursed were to be approved and audited by this Board. All signers of the contract authorized the Commissioner of Agriculture to assess a fine or penalty of Twenty-five (\$25.00) Dollars for each offense against any offender violating said contract. It was agreed that the program should not go into effect until 80% of the industry had agreed to the procedure.

The agreement set forth three grades to be observed by all purchasers of cream. These grades were No. 1, No. 2 and No. 3. The agreement provided for a premium of no less than two cents per pound to be paid for No. 1 cream above the price paid for No. 2. The agreement provided that No. 3 cream should not be purchased but condemned and destroyed. The contract stated that the Department assured the contracting

parties that their assent to the program would not be construed in restraint of trade, nor price fixing, nor collusion in any manner.

Placards bearing the seal of the State of Texas and the signature of the Commissioner of Agriculture were printed and supplied to all the parties to the contract, who in turn sent each of their commission agents a supply to post at their respective places of business in order to advise the public of the manner and authority under which cream was being purchased according to grades. On the grade tags was printed the statement that it would be a violation of the regulations and rules of the Agricultural Department to purchase cream other than on the grade bases. The committee is informed that not all of the members of the Board approved the placard and that several hundred thousand of these circulars were distributed over the State by Swift and Company, Borden and other large cream purchasers during the summer of 1934. No State law provides for such gradings.

The agreement presupposes that 80% by volume of all the cream purchasers in Texas are signers thereof. It would seem that such a small number of signers could not control such a large volume of purchases; however, the signers consist of large creameries scattered through the State and these creameries maintain approximately 4,000 cream purchasing stations in Texas. These stations are operated by a commission agent who purchases cream based on the grade promulgated by the Commissioner securing the funds necessary for said purchases from the creameries and is paid a commission thereon. If the commission agent purchases cream from the seller on grade No. 1 and upon arrival of said cream in the creamery, it is found that this cream should bear grade No. 2, then, the Commission agent is charged back with the difference in price. Likewise, if the agent purchases on a bases of No. 2 cream, and it is graded No. 1 by the creamery, the agent will receive the higher price.

It is the opinion of producers and others that it is a physical impossibility to uniformly grade cream as No. 1, No. 2, or No. 3. The test as outlined by the Commissioner of Agriculture to determine whether cream

is of No. 1, No. 2 or No. 3 grade, is the vague and general test of sight, smell and taste. When the cream is looked at, smelled of and tasted, a grade is placed thereon as outlined by the Commissioner.

The Commissioner of Agriculture has designated three inspectors, whose duty it is to look at, smell, and taste the cream which is purchased by the creameries and 4,000 purchasing cream stations. It is believed that these few men could not grade more than a very small amount of the cream purchased under such so-called grades.

Assuming that the Commissioner of Agriculture had the right to enter into the agreement and would promulgate certain grades of cream, it yet would remain necessary to determine whether there was a reasonable need for said grades and whether the grades fostered, aided and encouraged agriculture and other kindred pursuits. It is doubtful whether the program as outlined by the agreement substantially alleviated existing conditions. If the condition recited in the contract, really existed, it would seem reasonable that the manufacturers of butter in the State would label butter and certify thereon that said butter was manufactured from Grade No. 1 or No. 2 cream in accordance with State laws. If this were done when the butter reached any market, it could be readily identified and have its proper stand in the markets. There are only about four out of State shippers of butter, consisting of Swift, Borden, Wilson, and the Falfurrias Creamery. The Falfurrias Creamery is the only one whose product reaches the Eastern market, labeled as Texas butter, and this creamery does not belong to the association. There is nothing to prevent the manufacture of No. 2 cream into butter, and selling it as No. 1 butter. It is believed that the entire set-up is so arranged as to place the small producer at the mercy of the commission agents and the creamery. If the dealer or dealers or their agents should be unscrupulous or a little too zealous in looking after their own interests, power exists whereby they can take advantage in the grading, since there are not sufficient inspectors provided for to see that the program is not abused.

The farmer and other sellers of cream, who will be the majority af-

fectected, have no representation on the board; not only the purchaser but the seller of farm products should be considered.

Recommendations

1. The committee found that the dairy industry is of sufficient importance to the State to justify the creation of a State agency for the purpose of supervising the industry, and to administer such legislation as may be enacted looking toward the regulation of the industry. It is the opinion of those to whom the committee talked that the industry would be glad to support the cost of such agency. That is also the opinion of the committee since we believe that any law which is designed for the benefit of any particular group should be paid for by the group which it benefits. Since the problems giving rise to the need for such a law result primarily from dealings between producers and distributors, and manufacturers and between manufacturers and distributors themselves, it seems that the cost should be apportioned among the various plants and dealers. This could probably best be done on the basis of a sliding scale license fee.

Licenses should be required of all dairy plants buying milk and cream for processing or standardizing in any form. It should also be required of all cream stations and all individuals engaged in the sampling, grading, or testing of milk and cream where the result of such work is used on a basis of payment for said cream and milk. Licenses should also be required of creamery and milk plans, field men engaged in employing and instructing milk and milk station operators.

2. We recommend the passage of legislation to prohibit price manipulation by purchasers of milk products for the purpose of stifling competition, which legislation might well be fashioned after the anti-discrimination law of the State of Missouri.

3. We further recommend the passage of a usage law which will require from distributors an accurate account of the milk and cream bought in the various classes and the amount of milk and cream sold in those classes.

4. We urge that the City Health Departments in the cities of this State operating under the standard milk ordinance carry out the provisions of the city ordinance in regard to

the sale of Grade A milk, and prohibit the importation of milk which is not produced under the sanitary requirements required by the city ordinances.

5. We recommend such legislation as will require all milk placed on the market for consumption to be labelled as to grade, as to whether or not it is whole, pasteurized, raw or combined milk.

6. We recommend a rigid enforcement of the weight and test law by competent persons which will grant protection to the producer in the marketing of his products.

7. It is the opinion of the committee, based on facts found by the investigation, that the producers are unanimous in their belief that the present system of cream grading be abolished. The committee finds that the present cream grading program is one which is not compulsory in law, but the manner in which it is administered makes it compulsory in effect. Believing that the present cream grading program has proved detrimental to the producers of cream in this State, we recommend the abolition of such program.

The dairy industry in Texas has reached such proportions that it is now one of the major groups of the farming industry. The committee realizes that due to a lack of funds we are unable to talk to as many persons interested in the industry as we wished to; however, we have endeavored to talk to those who knew most about the industry, who were most interested in it, and who were willing to give all the facts available about the industry.

Those who have their investments in the industry realize that a bad condition exists at the present time between the producer and the distributor. Realizing that this industry is one of the largest of the farming group, and that it has unlimited possibilities in this field, the committee does not hesitate to recommend a State agency to co-ordinate the producer and distributor, and help better the industry in this State.

Signed:
 RUSSELL,
 HARDIN,
 BUTLER of Karnes,
 FAIN,
 JONES of Wise.

AUTHORIZING CERTAIN CORRECTION IN HOUSE BILL NO. 127

Mr. Jefferson offered the following resolution:

H. C. R. No. 35, Authorizing certain correction in House Bill No. 127.

Whereas, House Bill No. 127 has passed the House and Senate; and

Whereas, Said House Bill No. 127 was amended in the Senate and the caption does not conform to the body of the bill; therefore, be it

Resolved by the House of Representatives, the Senate concurring, That the Enrolling Clerk of the House be instructed to make the caption of House Bill No. 127 conform to the body of the bill.

JEFFERSON,
 READER.

The resolution was read second time, and was adopted.

RELATIVE TO PER DIEM OF MEMBERS OF CERTAIN SESSION

Mr. Quinn submitted the following motion:

Whereas, We have heretofore gone on record to continue this session or meet as a Committee of the Whole at the close of this session for the purpose of trying the Commissioner of Agriculture on certain charges heretofore preferred; and

Whereas, It is going to be hard to hold a quorum during this trial, and unless we have a quorum present at all times the trial will be unnecessarily delayed, causing a great expense to the tax payers of the State; and

Whereas, A former Attorney General several years ago ruled that no member of the Legislature was entitled to pay for the days he was absent unless excused on account of sickness;

Therefore, I move that during the hearing of Mr. McDonald that no member be paid for the days he is absent unless excused on account of illness to himself or his family.

QUINN,
 RECK.
 DAVISON of Fisher.

MESSAGE FROM THE SENATE

Austin, Texas, November 14, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has adopted the following:

H. C. R. No. 35, Instructing the Enrolling Clerk of the House to make certain correction in House Bill No. 127.

Respectfully,

BOB BARKER,
Secretary of the Senate.

RELATIVE TO THE CONFERENCE
COMMITTEE ON HOUSE
BILL NO. 46

Mr. Duvall moved that the Conference Committee on House Bill No. 46, be discharged.

Mr. Hofheinz raised a point of order on further consideration of the motion by Mr. Duvall, on the ground that the Conference Committee has made no report to the House, and that the House is without authority to take any such action until the Committee has made its report.

The Speaker sustained the point of order.

BILLS AND RESOLUTIONS
SIGNED BY THE
SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bills and resolutions:

H. B. No. 116, "An Act making certain emergency and supplemental appropriations out of the General Fund of the State of Texas for the Texas Prison System for the fiscal years ending August 31, 1936, and August 31, 1937, respectively, and declaring an emergency."

S. B. No. 10, "An Act providing for the amount that may be allowed by county boards of trustees to the county superintendents of public instruction for expenditures for office and traveling expenses in counties with a population of not less than thirty thousand (30,000), and not more than thirty thousand and twenty-nine (30,029), and in counties with a population of not less than eighteen thousand four hundred twenty-five (18,425) and not more than eighteen thousand five hundred twenty-eight (18,528), according to the last preceding Federal census, repealing all laws and parts of laws, general or special, in conflict herewith, and declaring an emergency."

S. B. No. 15, "An Act defining certain terms; providing for licensing of

operators and chauffeurs; providing for certain exemptions; prohibiting issuance of licenses to certain persons; providing for instruction permits; making provision for non-resident drivers; providing what persons shall be licensed; providing for application for operators and chauffeurs license; providing for signing of application of minors; providing for examination of applicants; etc., and declaring an emergency."

S. B. No. 5, "An Act relating to the compensation of district, certain designated county and precinct officers and providing the method and means by which such officers shall be compensated for their services; providing for the appointment and payment of deputies, assistants and clerks in district, county and precinct officers; limiting the payment of fees and commissions by the State in certain instances; and declaring an emergency."

H. B. No. 77, "An Act defining the term 'open saloon'; creating a Board of Liquor Control; prescribing rules and regulations, and regulating the manufacture, sale, importation, transportation, and possession of the alcoholic liquors; providing for the right of local option; etc., and declaring an emergency."

H. B. No. 127, "An Act amending Section 18a of the Acts of the Forty-fourth Legislature, Chapter 116, Regular Session, relative to the establishment of itinerant beauty shops, providing exceptions and adding Sections 18 (b) and 18 (c); providing for the amendment of Section 7 of the aforementioned Act; etc., and declaring an emergency."

S. C. R. No. 24, Concerning certain recommendations to educational authorities of Texas.

S. C. R. No. 18, Relative to a historical display to be held at the Centennial Exposition in Dallas.

S. C. R. No. 17, Memorializing Congress relative to reforestation in Texas.

H. C. R. No. 30, Authorizing certain correction in Senate Bill No. 5.

H. C. R. No. 31, Authorizing certain correction in Senate Bill No. 5.

H. C. R. No. 33, Authorizing certain correction in Senate Bill No. 5.

H. C. R. No. 35, Authorizing certain correction in House Bill No. 127.

**COMMUNICATION FROM HON.
COKE R. STEVENSON**

The following communication was ordered printed in the Journal:

House of Representatives,
Austin, Texas, November 14, 1935.

Mrs. Louise Snow Phinney, Chief Clerk, House of Representatives, Austin, Texas.

Dear Mrs. Phinney: By the authority vested in me under Rule I, Section 11, of the Rules of the House of Representatives, Honorable Emmett Morse is hereby appointed to preside in my absence.

COKE R. STEVENSON,
Speaker of the House
of Representatives.

**PROVIDING FOR COMMITTEES
TO NOTIFY GOVERNOR
AND SENATE**

Mr. McCalla offered the following resolution:

Whereas, The House of Representatives of the Second Called Session of the Forty-fourth Legislature has now completed its duties and is now ready to adjourn sine die; therefore, be it

Resolved by the House of Representatives, That the Speaker appoint two committees of five members each, one to notify the Governor and the other to notify the Senate that the House has completed its duties and is now ready to adjourn sine die as to legal matters only.

McCALLA,
CELAYA,
DUVALL,
CALDWELL,
HANNA.

The resolution was read second time, and was adopted.

In accordance with the above action, the Speaker announced the appointment of the following committee to notify the Governor: Messrs. McCalla, Celaya, Crossley, Alexander and McConnell.

The Speaker announced the appointment of the following committee to notify the Senate: Messrs. Duvall, Caldwell, Venable, Hyder and Newton.

HOUSE NOTIFIED

A committee from the Senate appeared at the bar of the House, and being duly announced, stated that the

Senate has completed its labors and is now ready to adjourn sine die.

SENATE NOTIFIED

The committee appointed to notify the Senate, that the House has completed its labors, and is now ready to adjourn sine die as to legal matters only, appeared at the bar of the House and, being duly announced, stated that they had performed the duty assigned them.

GOVERNOR NOTIFIED

The committee appointed to notify the Governor that the House has completed its labors, and is now ready to adjourn sine die as to legal matters only, appeared at the bar of the House, and, being duly announced, stated that they had performed the duty assigned them.

ADJOURNMENT SINE DIE

Mr. Leonard submitted the following motion:

I move that the House of Representatives, of the Second Called Session, of the Forty-fourth Legislature adjourn sine die for legislative purposes only, subject to action heretofore taken by the House of Representatives.

The motion of Mr. Leonard prevailed.

Speaker Stevenson, accordingly, at 12:00 o'clock midnight pronounced the House of Representatives of the Second Called Session of the Forty-fourth Legislature adjourned sine die so far as legislative matters are concerned, and stated that the House of Representatives would remain in session in accordance with the action heretofore taken by the House.

APPENDIX

**REPORTS OF THE COMMITTEE
ON ENGROSSED BILLS**

Committee Room,
Austin, Texas, November 13, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills to whom was referred

H. B. No. 127, A bill to be entitled "An Act amending and re-enacting

Section 18a of the Acts of the Forty-fourth Legislature, Chapter 116, Regular Session, relative to the establishment of itinerant beauty shops, providing exceptions and adding Section 18a providing for the amendment of Section 7 of the aforementioned Act; etc., and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

HODGES, Chairman.

REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,
Austin, Texas, November 14, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 127, "An Act amending Section 18 of the Acts of the Forty-fourth Legislature, Chapter 116, Regular Session, relative to the establishment of the itinerant beauty shops; providing exceptions, and adding Sections 18 (b) and 18 (c); providing for the amendment of Section 7 of the aforementioned Act, Section 13 thereof, Section 22, Subsection (a) thereof and Section 22, Subsection (c) thereof, and Section 10, Subsection (b) thereof, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 109, "An Act empowering cities of two hundred and thirty thousand (230,000) or more inhabitants to purchase and own, build, maintain, operate, mortgage and encumber health and recreational establishments, parks, playgrounds, hotels, bathhouses, bathing pools or facilities, and any and all other installations or establishments necessary or desirable as a part of health and recreational resorts, parks or playgrounds, or any of them, and the income therefrom, and to evidence the obligations therefor by bonds, notes or warrants and to secure the payment of funds to purchase or build same or to remodel, renovate, main-

tain or repair same; and to provide, maintain, operate and encumber such projects and facilities upon land acquired by gift, devise, grant, or otherwise, by such cities; secured by the property and its revenues; restricting property that may be encumbered or mortgaged; providing that no such obligation shall ever be a debt of such city; providing that House Bill 312, Chapter 163, Acts Forty-second Legislature, 1931, with reference to notice, competitive bids and the right to referendum shall not apply to cities acting under this Act; providing that when the income of such project or projects shall be encumbered, all expenses of operation and maintenance shall be a first lien and charge against such income; providing that the rate of rentals or concessions shall be determined by the governing body of such project, and that no free service or rental shall be allowed; providing that rentals and concession charges charged to pay operating, maintenance, depreciation, replacements, salaries and interest charges and for interest and sinking fund to pay bonds issued shall be in accordance with the requirements of such Governmental Agency as shall grant or loan funds in aid thereof; providing that every contract, bond or note issued under this law shall provide that the holder of said bond, note or contract shall never have the right to demand payment of said obligation out of any funds raised or to be raised by taxation; providing that the management and control of said health and recreational establishments, parks, playgrounds, hotels, bathhouses, bathing pools or facilities, and any and all other installations or establishments necessary or desirable as a part of such health and recreational resorts, parks or playgrounds, shall be in the City Council or Mayor and Commissioners of the City or in such other governing body as shall be established therefor by the said City Council or Mayor and Commissioners, and such governing body shall have power to make rules and regulations governing the use and care of said project or projects, and provide penalties for violation thereof and for trespass on said premises, or any part thereof; authorizing the execution of deeds of trusts to secure loaned funds and the appointment of a Trustee thereunder to act in case of default of principal or in-

terest of bonds issued, or other default or violation of such contract; providing that no foreclosure proceedings shall be instituted or collection fee accrue in case of default until the governing body of the City has been given notice in writing ninety (90) days prior to institution of foreclosure proceedings, and in the event the default or violation claimed be cured before the expiration of said ninety (90) days it shall have like effect as if no default had occurred or been claimed; providing that no part of the income from such project so encumbered shall be used to pay any other debt, expense or obligation of such City until the indebtedness so secured shall have been finally paid, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, November 13, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 108, "An Act to validate all ad valorem tax levies heretofore made by incorporated cities and towns in the State of Texas which levies are unenforceable because of failure of the governing body of each respective incorporated city and town to make such levy by ordinance, and which are unenforceable because of the failure of such governing bodies to appoint the Statutory Board of Equalization, or where the City Council, City Commission, or other governing body of such incorporated city or town has acted as a Board of Equalization in the fixing of the valuation of taxable property for ad valorem taxes within any such incorporated city or town; providing this Act shall not validate any levies for ad valorem taxes where the validity of such levy has been contested in any pending suit, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, November 13, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 107, "An Act to amend Section 7 of House Bill No. 131, Chapter 247, enacted by the Forty-third Legislature at the Regular Session, Page 867 of the Session Acts of said term in which is also Article 52, Section 161 of the Code of Criminal Procedure 1934, Supplement to Vernons Revised Statutes, changing the terms of Court of the Criminal District Court of Bexar County, Texas, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, November 13, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 106, "An Act to amend the law controlling Fresh Water Supply Districts as embraced in Chapter 4, Title 128 of the Revised Civil Statutes of Texas, 1925, and contained in Chapter 48, page 107 of the General Laws of Texas, enacted by the Thirty-sixth Legislature at its Second Called Session, as amended, so as to provide for a new Article to said Chapter 4, of said Title 128, to be known as 'Article 7959-a' and providing that where any such Fresh Water Supply Districts shall have issued bonds and where there shall not be a sufficient number of qualified voters and resident property owners in said District to constitute its governing body, or to hold an election for such purpose, that a remedy shall be supplied to any holders of such bonds by the filing of a petition in the office of the County Clerk in which any such District or Districts may be located, addressed to the County Commissioners Court of the county in which such District is located, applying for the appointment by said County Commissioners Court of a Board of Supervisors and/or Equalization Board and its secretary; providing for the requirements of such petition, and providing for a hearing thereon after due notice thereof; conferring power upon the County Commissioners Court to hear and determine said petition and to appoint such Board of Supervisors and/or Board of Equalization; providing that the County Tax Assessor and County Tax Collector in any county in which such Fresh Water District shall be located;

shall ipso facto become the tax assessor and the tax collector for such District; providing that where there is no duly qualified and acting Board of Supervisors of such Fresh Water Supply District, that such fact shall constitute prima facie proof that there is not a sufficient number of qualified residents and taxpayers residing in such District to serve as such officers or sufficient to hold such election; conferring upon the County Commissioners Court the power and original jurisdiction to hear and determine such petition, and providing that the District Court of Jurisdiction shall have power to review the judgment of the County Commissioners Court in any such case; providing for a Tax Assessor and Tax Collector; further prescribing the duties of such Board of Supervisors, Tax Collector and Tax Assessor and conferring upon the County Commissioners Court of such county the duty and power to levy and cause to be assessed upon all taxable property in such District taxes sufficient to pay the principal and interest as it accrues upon the bonded indebtedness of such District; providing that this Act shall not repeal any law, excepting as herein provided, but same shall be cumulative; containing a savings clause, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 111, "An Act authorizing the selection and the summoning of a general jury panel for jury service in the District and County Courts in counties of Texas wherein two (2) or more District Courts are situated and maintained; defining District Courts within the meaning of the Act; authorizing the Judges of the District and County Courts in any such county to meet together at stated intervals and determine the number of jurors necessary for jury service for all District and County Courts during a period of two (2) months or as many weeks in advance as they decide upon; providing that such Judges shall appoint a

presiding Judge who shall appoint a jury commission to select the jurors who shall be summoned by the sheriff to appear before the presiding Judge for the week for which they have been selected; providing for the summoning of additional jurors in cases of emergency; providing that the general jury panel, when properly summoned and sworn in shall constitute a general panel for all District and County Courts, and may be used interchangeably in all of said Courts; providing that any Court in need of a jury shall make this request known to the presiding Judge and such jury shall be furnished from the general panel; providing that any party to a suit or his attorney of record may have a requested jury drawn from the panel, or from any number remaining thereon, and providing for the method of drawing the same; providing that the Commissioners Court shall supply a convenient room in or near the Court-house for the general panel and that the sheriff shall assign a deputy to have custody and control of such jurors; providing that such Act shall be cumulative in such counties; providing that if any section or paragraph of the Act shall be declared unconstitutional it shall not affect the balance, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 134, "An Act making an appropriation of the sum of Seventy-five Thousand (\$75,000) Dollars, or so much thereof as may be necessary out of any funds in the State Treasury, not otherwise appropriated, to pay the contingent expenses, and to pay the per diem of members and the per diem of officers and employes of the Second Called Session of the Forty-fourth Legislature, also to cover unpaid expenses of the Regular Session and the First Called Session of the Forty-fourth Legislature; providing for a public record of money appropriated under this Act, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 126, "An Act to prohibit the trapping or hunting with guns of wild foxes, or having in possession the pelts thereof in Camp County; providing a penalty; providing that farmers or poultry raisers may kill such foxes while in the act of actually destroying chickens or other poultry or farm animals; repealing all laws or parts of laws in conflict herewith, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 124, "An Act to prohibit the selling, taking, or possession for barter or sale of wild fox, or the pelt thereof in Newton and Jasper Counties; to prohibit the killing of wild fox in said Counties; providing penalties, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 115, "An Act to validate the bonds of Water Improvement Districts and of Water Control and Improvement Districts where such bonds have been issued by the District and approved by the Attorney General of the State of Texas, notwithstanding the fact that such bonds were not validated by a suit in the District Court as required by law; providing that this Act shall not affect any bonds the validity of which is being questioned in any litigation pending

at the time this Act becomes effective, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 99, "An Act increasing the amount that may be allowed by County Boards of Trustees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in counties with a population of not less than sixty thousand (60,000), nor more than sixty-one thousand (61,000), and in counties having a population of not less than six thousand eight hundred (6,800) nor more than six thousand nine hundred (6,900), according to the last preceding Federal Census; repealing all laws or parts of laws, general or special, in conflict therewith, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 97, "An Act giving L. B. Hammett and wife, Mrs. L. B. Hammett, consent of the Legislature to sue the State of Texas and State Highway Commission for damages resulting from the construction of State Highway No. 6, in and through Grayson County, Texas; fixing the venue of said suit; providing that limitation shall not be pleaded, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 88, "An Act to amend Article 2968 of the Revised Civil Statutes of Texas of 1925, as amended by the First Called Session of the Forty-first Legislature, providing that the exemption certificates for the poll tax shall be secured before the 1st day of February, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 14, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 25, Suspending Joint Rules Numbers 11, 22 and 23.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 19, Granting Mrs. Julia Martin, Miss Roberta Martin and Mrs. Lela Kelly permission to sue the State.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 15, Granting Mrs. Fannie Williams permission to bring suit against the State of Texas.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 10, Requesting the Governor to submit legislation which will

replace our present suspended sentence laws.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 11, Authorizing the State Highway Commission to settle with J. D. George for certain claims.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 110, "An Act authorizing and empowering all cities and towns, including Home Rule cities, to build and purchase, to mortgage and encumber certain projects to-wit: Parks and/or swimming pools, golf courses, golf course club houses, ball parks, fairgrounds, exposition buildings, airports, and the land upon which the same are situated, and to evidence the obligation therefor by the issuance of bonds, notes or warrants, and to secure the payment of funds to purchase same or funds with which to construct and equip the same, and by excepting from the requirement of an election the encumbering of golf courses, golf course club houses, fairgrounds, airports and exposition buildings and the land upon which the same are situated, where such encumbrance and/or encumbrances on such project and/or projects have already been authorized at the time of the passage of this Act by a majority vote of the qualified voters at an election held for such purpose; validating any election heretofore held in such cities or towns, including Home Rule cities, wherein the qualified voters of such cities and towns have authorized the mortgage or encumbrance of any such project and/or projects named in this Act and the ground upon which the same was to be erected; and validating all proceedings and elections heretofore had

by the governing bodies of all cities and towns including Home Rule cities, in the State of Texas in the issuance and sale of bonds, and other obligations to aid in financing such project and/or projects; providing for the keeping of records and filing of reports of the operation of such project and/or projects, and prescribing penalties for failure to install and maintain such system of records and accounts pertaining to the operation of such project and/or projects, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 130, "An Act providing a method for the exclusion of lands from fresh water supply districts in counties having a population of not more than twenty thousand (20,000) or not less than three thousand (3,000), according to the last preceding Federal Census, and embracing not less than fifty thousand (50,000) acres, which districts have no outstanding bonded indebtedness; providing for the alteration of the boundaries of such districts so as to exclude the lands; validating all such fresh water supply districts; and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 122, "An Act amending House Bill No. 327, Chapter 330, of the General Laws of the State of Texas as passed by the Forty-fourth Legislature, 1935 Regular Session, by adding thereto a Section to be known as Section 6a, providing that a Common School District in a county whose population, as shown by the last Federal Census, is between forty-three thousand and one (43,001) and forty-three thousand one hundred (43,100)

inhabitants, and which District has a current levy of fifty (50) cents on the one hundred dollar property valuation, and has voted a tax levy of seventy-five (75) cents on the one hundred dollar valuation, may receive aid for a one-teacher school for the year 1935-36; repealing all laws in conflict therewith, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 13, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 66, "An Act amending Articles 2701 and 3888, Revised Civil Statutes of Texas, 1925; repealing all laws and parts of laws in conflict herewith; providing that if any section, subsection, paragraph, sentence, clause, phrase, or word contained herein shall ever be held to be unconstitutional or void for any reason that such holding shall not affect the remaining provisions hereof, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 14, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 28, Suspending Joint Rules 11, 22, and 23 for the purpose of finally passing House Bill No. 127 by both Houses.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 14, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 21, Granting C. D. Scroggin and L. S. Scroggin permission to sue the State of Texas.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 14, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 77, "An Act defining the term 'open saloon,' and prohibiting the operation of an open saloon, and providing a penalty for its violation; regulating the traffic in alcoholic liquors in this State, and prescribing penalties for offenses defined in connection therewith; creating the Texas Liquor Control Board, prescribing the qualifications and duties of the members thereof, and vesting it and other departments of State government with power to administer the provisions of this Act; providing for local option elections in counties, justice precincts, incorporated cities and towns to determine whether or not the qualified voters desire to authorize the sale of intoxicating liquors having various alcoholic contents; establishing a system or permits and licenses for persons engaged in the various phases of the liquor traffic; levying fees and taxes, and providing for their collection and allocating the fees and taxes collected; repealing Chapter 7, Title 11, Penal Code of 1925; Title 80, Revised Civil Statutes, 1925; Chapter 116, Acts of the Regular Session, Forty-third Legislature, and all amendments thereto; defining terms used in the Act; making appropriations; and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 14, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 33, Instructing the Enrolling Clerk of the Senate to amend the conference report on Senate Bill No. 5.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 14, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 35, Instructing the Enrolling Clerk to make the caption of House Bill No. 127 conform to the body of the bill.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 14, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 30, Instructing the Enrolling Clerk of the Senate to make certain corrections in conference report on S. B. No. 5.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, November 14, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. C. R. No. 31, Instructing the Enrolling Clerk of the Senate to make certain corrections in Senate Bill No. 5.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

FIFTEENTH DAY

(Monday, November 18, 1935)

The House met at 9:30 o'clock a. m., and was called to order by Hon. Emmett Morse, of Harris County.

The roll was called, and the Chair announced that there was not a quorum present.

Mr. Reed of Dallas moved a call of the House for the purpose of securing a quorum, and the call was duly ordered.

On motion of Mr. Reed of Dallas, the Sergeant-at-Arms was instructed to bring in all absent members within the city who are not ill.